

2 FEBRUARY 1948

I N D E X
of
EXHIBITS

<u>Dec.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
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(cont'd)

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	3874		SAIONJI-HARADA Memoirs - Chapter 246 (27 July 1937)	38653	
3013C	3874-A		Excerpt therefrom		38653
	3875		SAIONJI-HARADA Memoirs - Chapter 247 (4 August 1937)	38658	
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3018A	3877		SAIONJI-HARADA Memoirs - Chapter 260 (19 January 1937)		38674
3035	3878		SAIONJI-HARADA Memoirs - Chapter 338 (1 September 1939)		38677
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3045	3880		Sworn Deposition of SASSA, Rempei		38685
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(cont'd)

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3046A	3882		Sworn Deposition of ABO, Kiyotane		38707
2993	3883		Sworn Deposition of ISHIWATA, Sotaro		38709
3007	3884		Sworn Deposition of NAKAMURA, Masao		38714

Monday, 2 February 1948

- - -

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

- - -

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International Mili-
2 tary Tribunal for the Far East is now resumed.

3 THE PRESIDENT: All the accused are present
4 except SHIRATORI who is represented by counsel. The
5 Sugamo Prison surgeon certifies that he is ill and un-
6 able to attend the trial today. The certificate will
7 be recorded and filed.

8 Mr. Lazarus.

9 MR. LAZARUS: We next offer defense document
10 2996.

11 THE PRESIDENT: Is there no objection?

12 MR. LAZARUS: This is an excerpt from the
13 testimony of one of the four Japanese officers tried by
14 the American court in Shanghai for the torture, trial,
15 and execution of the Doolittle fliers by the 13th Army
16 in Shanghai.

17 OKADA was a staff officer of the 13th Army
18 Headquarters in Shanghai and was appointed a member of
19 the court which tried the eight fliers and sentenced
20 all eight to death. He reveals, while testifying in
21 his own behalf, that Major HATA, the prosecutor, requested
22 the death penalty. He is the first of the four accused
23 whose excerpts we offer and the Tribunal will note that
24 they do not, even when on trial for their lives before
25 the American court, state that General HATA requested

the death penalty.

1 MR. SUTTON: If it please the Tribunal, the
2 prosecution objects to this document on the grounds
3 previously stated for which it objects to each of the
4 excerpts from the SAWADA trial. The witnesses intro-
5 duced by the defense testified that the trial was held
6 under orders issued by General HATA as commanding general
7 of the expeditionary forces in China.

8 THE PRESIDENT: This is no answer, anyway. As
9 far as I can judge it was never suggested that the ac-
10 cused HATA himself went into court and asked for the
11 penalty.

12 MR. SUTTON: That is our position, sir --

13 THE PRESIDENT: Both of us cannot talk at the
14 same time. You will wait until I finish.

15 MR. SUTTON: I am sorry, sir.

16 THE PRESIDENT: The suggestion would be that
17 HATA told somebody else to ask for the penalty in
18 court.

19 MR. SUTTON: Our position, sir, is that this
20 testimony does not rebut anything introduced by the
21 prosecution.

22 THE PRESIDENT: By a majority the objection is
23 overruled and the document admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 2996

shall receive exhibit No. 3868.

(Whereupon, the document above referred to was marked defense exhibit No. 3868 and received in evidence.)

MR. LAZARUS (reading): "OKADA, Ryuhei was called as a witness on his own behalf."

* * * *

"Question: Were you at one time a member of the 15th Army in China?

"Answer: Yes.

"Question: In August of 1942, what duties were you performing in the Army?

"Answer: I was serving as one of the members of the staff."

* * * *

"Question: Were you appointed in August 1942 to a military tribunal for the trial of the Doolittle fliers?

"Answer: Yes."

* * * *

"Question: What did Major HATA tell the court?

"Answer: I do not know the exact words that he did say but he first mentioned the names of the eight fliers, then named the various evidences and questioning of the fliers and said that it is evident that they are

1 guilty in a view of military law; therefore I request
2 the penalty be death sentence. That was said in
3 his closing argument."

4 We next offer defense documents 2994 and 3005.
5 These both contain the testimony of TATSUTA, another of
6 the four Japanese officers tried by this American court
7 for the torture, trial and death of the Doolittle fliers.
8 TATSUTA was the jailer of the American fliers and he
9 was present at their execution, and he states he read
10 the order for their death to them at their execution.
11 The contents of that order were that by order of the
12 Commander of the 13th Army, Hallmark, Farrow and Spatz
13 were to be executed.

14 THE PRESIDENT: Mr. Sutton.

15 MR. SUTTON: If it please the Tribunal, we
16 respectfully object to this document on the ground that
17 it is repetitive and not in answer to anything new
18 brought out by the prosecution in the rebuttal phase.

19 MR. LAZARUS: In its rebuttal, if the Tribunal
20 please, the prosecution introduced evidence tending to
21 show that it was HATA who, in their contention, was
22 responsible for the torture of the Doolittle fliers, and
23 who gave the order or requested that the death sentence
24 be issued. Here we are introducing excerpts from four
25 of the men who were tried for their responsibility for

1 the atrocities against the Doolittle fliers, by an
2 American court, and in their own defense they did not
3 lay the blame on General HATA.

4 With this excerpt we show that even the very
5 last act, the order for the execution, was still signed
6 by the Commanding General of the 13th Army, not by
7 General HATA.

8 MR. SUTTON: With the permission of the Tri-
9 bunal, may I add that a defense witness, MIYANO, testified
10 that the trial was held by the 13th Army under orders
11 from General HATA, the Commanding General.

12 THE PRESIDENT: By a majority the objection
13 is sustained and the documents rejected.

14 MR. LAZARUS: We next offer two defense docu-
15 ments, 2997 and 3002. These excerpts contain the
16 testimony and the statement of the third of the four
17 Japanese officers --

18 THE PRESIDENT: They have not been distributed
19 yet.

20 MR. LAZARUS: I am sorry.

21 THE PRESIDENT: Yes, Mr. Lazarus.

22 MR. LAZARUS: These excerpts contain the tes-
23 timony and the statement of the third of the four Japan-
24 ese officers tried by the American court for the torture,
25 trial and death of the Doolittle fliers. This accused,

1 WAKO, Yusee, was the law member of the court and he re-
2 ceived the severest penalty given by the American court.
3 He received a nine-year sentence while the other three
4 received five years each.

5 He too testifies that the Commander of the 13th
6 Army appointed him to the court and he in turn received
7 his orders from Tokyo Imperial Headquarters. He even
8 saw the Tokyo order that came to the 13th Army Head-
9 quarters, that they had to report the findings of the
10 court to Imperial Headquarters.

11 Here again, by one of the accused tried for
12 this trial and execution, we show General HATA had no
13 hand in the trial or sentence or execution of the fliers.
14 He states that Major HATA, the prosecutor, requested the
15 death penalty. He further states orders were received
16 to report the trial to Tokyo and Tokyo sent instructions
17 to execute three fliers and reduce the sentence of the
18 other five.

19 The United States Government was not notified
20 about the death sentence because Imperial Headquarters
21 in Tokyo had ordered that it would conduct all matters
22 concerning this case.
23
24
25

THE PRESIDENT: Mr. Sutton.

1 MR. SUTTON: If it please the Tribunal, the
2 prosecution objects to these two documents for the
3 same reasons as assigned to the objections to the
4 other excerpts from the SAWADA trial, and for the
5 additional reason that they are repetitive.

6 They answer nothing new brought out by the
7 prosecution in rebuttal and show on their face that
8 the trial was held by the 13th Army, which the de-
9 fense witnesses testified was acting under the
10 orders of the Commanding General in the China Theatre,
11 General HATA.

12 THE PRESIDENT: By a majority the objection
13 is sustained and the document rejected.

14 MR. LAZARUS: We next offer defense docu-
15 ments 3001 and 2995.

16 These excerpts have the testimony and state-
17 ment of Lt. General SAWADA, the Commanding General
18 of the 13th Army in Shanghai. It was under his orders
19 that the court was appointed and the trial held and
20 he affirmed the death sentence. In the prosecution's
21 transcript, exhibits 27 and 28, SAWADA states that the
22 new commanding general of the 13th Army issued the
23 orders to execute the three Americans, and that he,
24 SAWADA, was responsible for the trial and sentence.
25

1 Very important is the fact that he had authority
2 over Kianghawan Military Prison where the fliers were
3 tortured. Further, in his direct testimony, he stated
4 that ITO, Chief of the Judicial Department, sent the
5 decision of the trial directly to Tokyo.

6 On cross-examination SAWADA states that the
7 Kianghawan Prison, where the fliers were tortured, in
8 Shanghai, was 300 meters from his office. He knew
9 they were there, knew how they were being treated. He
10 states that on orders from the War Ministry, in Tokyo,
11 these Americans were treated as war criminals rather
12 than as war prisoners, that this treatment of the
13 fliers was carried out under his "command responsibility."
14 And Major HATA's demand of the death penalty as prose-
15 cutor was also his responsibility, SAWADA admits.
16 Further, SAWADA admits that the record of the trial,
17 which he signed, never left 13th Army Headquarters in
18 Shanghai. Only the results of the trial were sent to
19 Tokyo. He was the only one "that actually approved the
20 record of trial." On question by the court itself
21 SAWADA answered that the report sent to Tokyo through
22 Nanking was the verdict of the Military Tribunal only.
23 Thus Nanking never saw the record of the trial.

24 THE PRESIDENT: Mr. Sutton.

25 MR. SUTTON: If it please the Tribunal, the

1 prosecution objects to these two excerpts from the
2 SAWADA trial.

3 The witness SAWADA was introduced as a wit-
4 ness for the defense and testified as such before this
5 Tribunal. At transcript page 27,454 he actually testi-
6 fied concerning the same facts as are set out on page
7 5 of the first document now offered in evidence.

8 The defense proved through their own wit-
9 ness that the record of this trial was sent from
10 Shanghai to General HATA's headquarters. MIYANO testi-
11 fied to that. We respectfully submit that the defense
12 are not entitled to introduce evidence to bolster the
13 testimony of their witness, and they have given no
14 reason to introduce evidence seeking to contradict the
15 testimony of their witnesses.

16 MR. LAZARUS: Mr. Sutton makes a mistake
17 when he says General SAWADA testified for the defense
18 on the Doolittle trial. He did not. He was cross-
19 examined by the prosecution on the Doolittle fliers,
20 taking us completely by surprise. This is the first
21 opportunity we have had to show what he did say in
22 his own defense about the Doolittle fliers' trial.

23 THE PRESIDENT: By a majority the objection
24 is sustained and the document rejected.

25 MR. LAZARUS: We offer our last excerpt,

1 defense document 3004.

2 This is a statement by General TOJO that the
3 regulations under which the trial was held, the trial
4 itself, and the order for the approval of the Emperor's
5 mitigation of five sentences and approval of three
6 death sentences were issued by Chu-O, which is the name
7 used for Imperial General Headquarters, or the Minister
8 of War.

9 This is a complete refutation of the prose-
10 cution's rebuttal evidence that General HATA gave the
11 order for the trial or requested the death sentence.
12 This document shows where the orders for the trial
13 and the orders for approval of the sentence originated,
14 and it is vital to our case that we be permitted to
15 refute the prosecution's rebuttal evidence in this way.

16 THE PRESIDENT: Mr. Sutton.

17 MR. SUTTON: If it please the Tribunal, the
18 prosecution objects to this document on the ground that
19 the accused TOJO on the witness stand in this trial
20 testified concerning his version of the facts with
21 regard to the trial and sentence and suspension of the
22 execution of the Doolittle fliers.

23 His interrogation on that subject was originally
24 introduced at transcript page 14,602-3, and his testi-
25 mony on all phases of that subject appears at trans-

1 crypt page 36,418-20. We respectfully object to the
2 introduction of this document.

3 MR. LAZARUS: The American court tried the
4 four people which it deemed responsible for the
5 atrocities and the death of the Doolittle fliers.
6 The prosecution has taken one small part of more than
7 500 pages of testimony and tried to convince this
8 Tribunal that General HATA was responsible for the
9 entire matter.

10 We have introduced the testimony of the four
11 men themselves who were defending their lives before
12 the American Tribunal for their part in that trial,
13 and now we offer the testimony of one of their star
14 witnesses to show it couldn't have been General HATA
15 who was responsible for the trial in any way. Surely
16 the Tribunal must permit us to defend ourselves in
17 this manner.

18 THE PRESIDENT: Be content to make submissions;
19 don't resort to appeals to us.

20 MR. LAZARUS: I am not resorting to pleas,
21 Mr. President; I am stating the evidence.

22 THE PRESIDENT: By a majority the objection
23 is sustained and the document rejected.
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1 MR. HAYASHI: I am counsel HAYASHI, repre-
2 senting the accused HASHIMOTO.

3 I now offer defense document No. 602-A-2,
4 being an excerpt of the interrogation of HASHIMOTO,
5 Kingoro on the 17th of January 1946. This is an excerpt
6 of the interrogation from which another excerpt, exhibit
7 3846, was presented by prosecutor Woolworth on the 23d
8 of January. Defense document 602-A-2 gives a further
9 detailed explanation of the accused HASHIMOTO's answer
10 appearing in the exhibit 3846. By this document I
11 would like to prove that the shelling of the Lady Bird
12 was an accident due to fog, believing it was a Chinese
13 ship carrying Chinese soldiers. This evidence is
14 being presented to meet the evidence in exhibit 3846.

15 THE PRESIDENT: Colonel Woolworth.

16 MR. WOOLWORTH: If the Tribunal please,
17 prosecution objects to the introduction of this docu-
18 ment on the ground that it does not deny anything
19 offered in rebuttal by the prosecution.

20 THE PRESIDENT: It was available to and should
21 have been used by the accused HASHIMOTO in the course
22 of his defense in chief.

23 By a majority the objection is sustained and
24 the document rejected.

25 MR. HAYASHI: That is all.

THE PRESIDENT: Mr. Yamaoka.

1 MR. YAMAOKA: May it please the Tribunal, in
2 presenting the evidence in surrebuttal for Mr. HIROTA,
3 we have confined ourselves strictly to meeting the
4 issues raised by the prosecution on its rebuttal.

5 We offer in evidence defense document 3010-A,
6 being an excerpt from the SAIONJI-HARADA Memoirs,
7 Chapter 100, for the purpose of clarifying prosecution
8 exhibit 3775-A which was received in evidence at record
9 page 37,649.
10

11 THE PRESIDENT: I understand that the Clerk
12 of the Court has none of these documents. We will
13 have to wait until we get them.

14 Mr. Yamaoka.

15 MR. YAMAOKA: I am sorry for the oversight,
16 if your Honors please, but I checked Friday and I
17 understood that most of the originals are on file.
18 Now, as to the English translations, we were perfectly
19 satisfied at that time to have the SCAP translation
20 utilized. This morning, if your Honors please, we did
21 file the missing Japanese originals of the various
22 chapters. I believe they are in court now.

23 THE PRESIDENT: Mr. Comyns Carr.

24 MR. COMYNS CARR: May it please the Tribunal,
25 prosecution objects to this document--

1 THE PRESIDENT: We had better see it first,
2 Mr. Carr. It has not been distributed.

3 MR. COMYNS CARR: In the first place, the
4 defense had every opportunity of introducing any
5 excerpts they wanted from the HARADA diary at any time
6 in their case. It has been available to them from the
7 29th of August 1947 before any of the individual defense
8 cases were begun.

9 THE PRESIDENT: Were each defense counsel
10 provided with a copy then?

11 MR. COMYNS CARR: No, your Honor, there
12 weren't copies available for each prosecution counsel,
13 let alone each defense counsel; but they were deposited
14 with the Clerk of the Court. Public notice was given
15 that they were available for inspection by the defense.

16 THE PRESIDENT: Unless they had copies, each
17 would have to peruse it in turn and there were twenty-
18 five.

19 MR. COMYNS CARR: Well, your Honor, they
20 wouldn't all want to peruse the same parts of it. In
21 fact, they did extensively peruse both the Japanese and
22 the English and used the results of their perusal for
23 the purpose of objecting to prosecution documents, or
24 rather questions put by the prosecution in cross-
25 examination. One of them also did put in an excerpt

1 in the course of his case; but, your Honor, with
2 regard to this particular one, the main objection is
3 this: It hasn't anything directly to do with the
4 exhibit to which my friend has referred, but it was
5 closely connected with a document which we submitted,
6 relating to exactly the same matter around about
7 exactly the same time, but which the Tribunal rejected.
8 In our submission it would be wrong that our extract
9 on this very point having been rejected a defense
10 extract should be admitted.

11 If it is admitted I ask that I be allowed to
12 read into the record that part which bears on it
13 which I wasn't allowed to read before and also that
14 the portion omitted in their extract and shown by
15 dashes should be read because it is necessary in order
16 to understand it. But I submit the proper method of
17 dealing with the matter is to reject it.

18 THE PRESIDENT: Mr. Yamaoka.

19 MR. YAMAOKA: May it please the Tribunal,
20 in so far as the requirement on the defense to anticipi-
21 pate the evidence to be utilized out of the HARADA-
22 SAIONJI Memoirs, I do not believe that even though the
23 SCAP translations and some of the Japanese originals
24 were on file in the Clerk's office much earlier last
25 year we are required to put in during our case, that

1 is the defense case, in anticipation of the prosecution
2 each and every excerpt that we intend to rely therefrom.
3 As a matter of fact, because of the great cloud of
4 dubiety cast upon these Memoirs as to its authenticity
5 and correctness, we did not intend to employ the
6 excerpts from these Memoirs on our main case.
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THE PRESIDENT: That is a risk you took.

1 MR. YAMAOKA: But the prosecution having
2 chosen to introduce into evidence excerpts from these
3 memoirs, and having met the tests required by the
4 Tribunal of importance and probative value, we respect-
5 fully submit that we should be permitted to introduce
6 additional excerpts dealing with the same subject matter
7 from the same memoirs.

8 THE PRESIDENT: Mr. Carr says it is similar
9 to a prosecution document that was rejected. What
10 have you to say about that, Mr. Yamaoka?
11

12 MR. YAMAOKA: Coming specifically, if your
13 Honors please, to exhibit 3775-A which was introduced
14 by the prosecution against the accused ARAKI, I beg
15 to invite the Tribunal's attention to the fact that
16 that exhibit contains certain remarks by Mr. HIROTA as
17 Foreign Minister. This exhibit, that is to say, this
18 excerpt shows Mr. HIROTA's views as being similar to
19 that of the Finance Minister TAKAHASHI and opposed to
20 that of the Army and Navy that there would be a crisis
21 in 1936. Mr. HIROTA being part of the government at
22 that time this excerpt is offered to rebut any unfavor-
23 able inference that might arise from the prosecution's
24 exhibit 3775-A standing alone, unchallenged and unex-
25 plained. In this connection I respectfully invite the

1 attention of the Tribunal to record 37,645 at which
2 point Mr. Carr indicated his position as to the liabil-
3 ity of Mr. HIROTA as a member of the government adopt-
4 ing a certain policy at that time. That was the main
5 purpose of this tender, if your Honors please.

6 In so far as reading any omission contained
7 in this excerpt I should be very happy to oblige my
8 learned friend.

9 THE PRESIDENT: I am speaking of the rejected
10 prosecution's document.

11 MR. YAMAOKA: Yes, coming to that point, if
12 your Honors please, by showing the connection between
13 this tender and exhibit 3775 which was accepted by the
14 Tribunal as evidence in the case I had hoped to point
15 out the importance and relevancy of this document as
16 opposed to and contradistinguished from the rejected
17 document. In so far as that rejected document is con-
18 cerned I must frankly admit, if your Honors please, that
19 I do not quite recall that document.

20 I think we have straightened out our diffi-
21 culty as to the omission.

22 May we have a ruling from your Honors?

23 THE PRESIDENT: We are waiting until you
24 peruse what we were told was a rejected prosecution's
25 document.

1 MR. COMYNS CARR: I have just drawn my friend's
2 attention to it in his own copy.

3 THE PRESIDENT: By a majority the objection is
4 sustained and the document rejected.
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1 MR. YAMAOKA: We next offer in evidence defense
2 document 3010-B, being another excerpt from the SAIONJI-
3 HARADA Memoirs, Chapter 103, for the purpose of counter-
4 acting prosecution exhibit 3755-A, which was received
5 in evidence at record 37,649.

6 THE PRESIDENT: Mr. Carr.

7 MR. COMYNS CARR: The prosecution objects,
8 your Honor. This document, again, has nothing in our
9 submission to do with exhibit 3775-A or with anything
10 else that was introduced in the prosecution's rebuttal
11 but relates to quite a different matter which was fully
12 covered in the defense case.

13 MR. YAMAOKA: If your Honors please, this ex-
14 cerpt explains the counter measures mentioned by HIROTA
15 in prosecution exhibit 3775-A and is, therefore, explan-
16 atory of that exhibit.

17 THE PRESIDENT: By a majority, the objection
18 is overruled and the document admitted on the usual
19 terms.

20 CLERK OF THE COURT: Defense document 3010-B
21 will receive exhibit No. 3869.

22 (Whereupon, the document above
23 referred to was marked defense exhibit
24 No. 3869 and received in evidence.)

25 MR. YAMAOKA: I will read exhibit 3869:

Excerpt from the "SAIONJI-HARADA Memoirs.

"Chapter 103 (24 October 1933)

"I met the Foreign Minister (HIROTA) and he said: 'I desire to conduct matters so as not to arouse diplomatic difficulties. I wonder if the time isn't coming when America will recognize Russia and, accompanied by China, will subject Japan to an ordeal just as they did at the Washington Conference. In order that such a situation will never develop, in other words, so that Japan will not be confronted with such a situation, we must act now on Japan's relations with America, China and also Russia. In order to bring the Manchurian problem to a solution, Russia must be handled harmoniously and the existing issues settled. These ideas are the Chinese Eastern Railway and armaments. Furthermore, there is no other recourse than to settle the Simla Conference and improve our relationships with England.'"

We next offer in evidence defense document 3011-C, being another excerpt from the SAIONJI-HARADA Memoirs, Chapter 145, for the purpose of meeting prosecution exhibits 3774-A, record 37,646; 3777-B, record 37,668; and 3778-A, record 37,672.

THE PRESIDENT: Mr. Carr.

MR. CONYNS CARR: Your honor, prosecution objects. The document does not meet any of those exhibits.

1 It is no doubt related to the same subject matter but
2 relates to ideas that HIROTA had at a much earlier
3 period and abandoned.

4 MR. YAMAOKA: If your Honors please, it will
5 be recalled that exhibit 3774 was introduced by the
6 prosecution to show the Navy's attitude regarding dis-
7 armament and in demanding equality even at the risk of
8 rupture and abrogation of the naval treaties.

9 THE PRESIDENT: Mr. Comyns Carr.

10 MR. COMYNS CARR: Your Honor, I should have
11 said, if my friend permits me to interpose, that in
12 this case they have altered the translation of the last
13 sentence without any certificate or justification for
14 doing so. The original translation, in our submission,
15 clearly means that the persons to whom he was prepared
16 to make concessions were the Navy Ministry. It was
17 apparently intended to suggest the meaning that he wanted
18 to make concessions to other powers.

19 MR. YAMAOKA: I respectfully suggest that the
20 matter be referred to the Language Section as we have
21 in the past, if your Honors please.

22 THE PRESIDENT: Withdraw it and have it revised.

23 MR. YAMAOKA: Yes, I shall comply, if your
24 Honors please.

25 THE PRESIDENT: By the Language Section.

1 MR. YAMAOKA: Yes.

2 We next offer in evidence defense document
3 3011-D, being another excerpt from the SAIONJI-HARADA
4 Memoirs, Chapter 146, for the purpose of meeting the
5 issues raised by prosecution exhibits 3774-A, record
6 37,646; 3777-B, record 37,668; and 3778-A, record
7 37,672.

8 THE PRESIDENT: What is it tendered for?

9 MR. YAMAOKA: It is for the purpose of meeting
10 the issues raised by the three prosecution exhibits
11 which I have just mentioned, if your Honors please.

12 THE PRESIDENT: Any objection? Mr. Comyns Carr.

13 MR. COMYNS CARR: Your Honor, the prosecution
14 objects to this as having no probative value or importance,
15 because at a subsequent date, as we have proved, HIROTA
16 withdrew all these ideas of his and adopted the Navy
17 position in full.

18 Moreover, there is an omission in the middle
19 of the first paragraph which if it is to go in at all
20 should obviously not have been omitted and puts a
21 different light on the whole excerpt. It consists of
22 bits picked out from three different paragraphs which,
23 as they stand, are quite misleading having regard to
24 the one particular part omitted.

25 MR. YAMAOKA: I respectfully submit that there

1 is no intention on our part to make misleading quota-
2 tions out of these memoirs. And in any event we
3 respectfully submit that if the Tribunal will go over
4 these alleged omissions, that is, in the originals,
5 the main purport in context and the purpose of the
6 tender will be made obvious.

7 THE PRESIDENT: Well, they must be in evidence
8 before we can go over the omitted parts.

9 MR. YAMAOKA: Well, if your Honors please, this
10 3774 and 3777-B and 3778-A were introduced by the prose-
11 cution generally to show that Mr. HIROTA, being part
12 of the government at that time, took an uncompromising
13 stand on naval disarmament.

14 THE PRESIDENT: A majority will admit this if
15 you include the omitted parts. Are they extensive?

16 MR. YAMAOKA: I don't know which part Mr. Comyns
17 Carr desires, but I shall be very glad to oblige him.

18 THE PRESIDENT: Read them after the recess.
19 We will recess for fifteen minutes.

20 (Whereupon, at 1045, a recess was
21 taken until 1100, after which the proceed-
22 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Captain Kraft.

4 LANGUAGE ARBITER (Captain Kraft): If the
5 Tribunal please, the Language Arbitration Board sees
6 no ground for changing the last sentence, correcting
7 the last sentence in defense document No. 3011-C.

8 THE PRESIDENT: Mr. Yamaoka.

9 MR. YAMAOKA: May it please the Tribunal,
10 we were discussing the tender of defense document
11 3011-D, and we were checking at the time of the recess
12 a certain omission which Mr. Carr desired that I should
13 include in the reading of this document, if admitted.

14 THE PRESIDENT: It is admitted if the omissions
15 are read, those indicated by Mr. Comyns Carr.

16 CLERK OF THE COURT: Chapter 146 of the
17 SAIONJI-HARADA Memoirs will receive exhibit No. 3870
18 for identification only. The excerpt therefrom, being
19 defense document 3011-D, will receive exhibit No.
20 3870-A.

21 (Whereupon, the document above
22 referred to was marked defense exhibit
23 No. 3870 for identification; the excerpt
24 therefrom, being defense document No. 3011-D,
25 was marked defense exhibit No. 3870-A and

received in evidence.)

1 MR. YAMAOKA: I shall read exhibit 3870-A.

2 "Chapter 146 (29 August 1934).

3 "On the morning of the 29th I went to the
4 Premier's residence . . . The Premier replied:

5 ' . . . the Foreign Minister strongly asserted that
6 in Anglo-Japanese relations it would be unreasonable
7 to have Great Britain possess only the same amount as
8 Japan. Even if there should be a difference of sixty
9 or seventy thousand tons or of several thousand tons
10 more, it would be very well if there were no protest.

11 He didn't want to irritate Britain but desired to be
12 on friendly terms.'" At this point I shall read the

13 omission which Mr. Carr desires. I am sorry; it should
14 be after the words, "'I met the Foreign Minister on my
15 way home. He said: "The first problem was that of
16 abrogation. Japan was abrogating the Washington treaty,
17 because she wanted to go her own way in the future.

18 I brought forth the suggestion to seek a mutual abro-
19 gation of the treaty instead of having just one country
20 do it. If the other parties did not agree to this

21 Japan would be forced to do it alone at the end of this
22 year.'" Continuing with the exhibit: "'In Anglo-

23 Japanese relations I would like to handle matters so
24 that there is room for compromise.'" I said all these
25

1 things to the Navy Minister and although he gave no
2 definite reply, I think that he will agree.'

3 "The Foreign Minister also said: 'I want
4 this kept top secret. I told the Prime Minister
5 that I could not accept any future responsibilities
6 if I were told to carry out strait-laced diplomacy.
7 In that case the only solution would be to resign.
8 However, if I were allowed a small amount of leeway
9 I would cooperate as much as possible. These were
10 grave times, so in settling matters I favored con-
11 ferences in the Imperial presence. When I said this
12 the Prime Minister replied: "Conferences in the
13 Imperial presence are very dangerous. The Cabinet
14 wants to handle this as its own responsibility. Don't
15 talk about resigning; how about continuing until
16 next year's conference?" We departed after this.'
17 'If there is no reference to this from the Prime
18 Minister, will you keep it to yourself?'"

19 At this point I desire to offer defense
20 document 3011-C, which was temporarily withdrawn.
21 The Tribunal will note that this also deals with the
22 same subject matter.

23 THE PRESIDENT: By a majority the objection
24 is overruled and the document admitted on the usual
25 terms.

CLERK OF THE COURT: Defense document 3011-C
1 will receive exhibit No. 3871.

2 (Whereupon, the document above
3 referred to was marked defense exhibit
4 No. 3871 and received in evidence.)

5 MR. YAMAOKA: May I invite the Tribunal's
6 attention to the fact that Chapter 146 at the heading
7 of this excerpt is an error. It should be 145; and
8 the date, August 24, 1934, should be August 20, 1934.

9 I now read exhibit 3871:

10 "Foreign Minister HIROTA told me: 'The Navy
11 Minister seems to have proceeded to the fleet and
12 calmed down the young officers, saying, 'You may feel
13 assured; for the government is firm in the determination.'
14 The Foreign Ministry's plan for naval disarmament is
15 how to realize our demand for parity. Some people
16 claim for a necessity for having quite a prolonged
17 term, and suggest a term of 10 or 12 years to be first
18 proposed and then to be cut halfway into a six years'
19 period or so. If we wish to reach an agreement at
20 all, I (HIROTA) hope we will go about it fully ready
21 to make concessions if necessary.'"

22 The next offer in evidence defense document
23 3011-G, being another excerpt from the SAIONJI-HARADA
24 Memoirs, Chapter 155, for the purpose of meeting
25

1 prosecution exhibits 3774-A, record 37,646; 3777-B,
2 record 37,668; and 3778-A, record 37,672.

3 THE PRESIDENT: Mr. Comyns Carr.

4 MR. COMYNS CARR: If the Tribunal please,
5 this document doesn't answer anything in any of
6 those exhibits. If the defense wanted it, they should
7 have put it in as part of their case.

8 MR. YAMAOKA: May it please the Tribunal,
9 this ~~excerpt~~ further shows that Mr. HIROTA was in
10 favor of rapprochement and contradicts the prosecu-
11 tion exhibits above specified.

12 The prosecution has often stated that there
13 have been inconsistencies in Mr. HIROTA's public
14 pronouncements and some of his actions, and I have
15 endeavored to fortify that with the exhibits I have
16 just mentioned. This tender shows the consistency
17 of action between Mr. HIROTA's pronouncements and
18 his dealings with the various parties in connection
19 with the disarmament question.
20

21 THE PRESIDENT: By a majority the objection
22 is overruled and the document admitted on the usual
23 terms.

24 CLERK OF THE COURT: Chapter 155 of the
25 SAIONJI-HARADA Memoirs will receive exhibit No. 3872

1 for identification. The excerpt therefrom, being
2 defense document 3011-G, will receive exhibit No.
3 3872-A .

4 (Whereupon, the document above
5 referred to was marked defense exhibit
6 No. 3872 for identification; and the excerpt
7 therefrom, being defense document No. 3011-G,
8 was marked defense exhibit No. 3872 and re-
9 ceived in evidence.)
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1 MR. YAMAKA: Before I read this, may I
2 invite the attention of the Tribunal to the fact that
3 there is a slight correction on this document. In
4 the second line, beginning with the words "In other
5 words" to the end of the page, it should be in double
6 quotations.

7 I shall read exhibit 3872-A.

8 "I met the Foreign Minister and asked him
9 about the Chinese Eastern Railway negotiation. - - - - -
10 'In other words, negotiations were being carried on
11 very slowly. Regarding the Disarmament Conference in
12 London, the disarmament plan had been drafted, but the
13 United States and Great Britain could not openly oppose
14 the plan submitted by Japan. It appears that the
15 United States and Great Britain are changing their
16 course toward a political standpoint. Entirely apart
17 from this problem, the ministry is trying to bring about
18 a rapprochement between Japan and Britain. It would
19 not come right out and make an alliance, but it was
20 going to form something like a Four-Power Pact. At
21 the present time Ambassador MATSUDAIRA was making
22 approaches to the British Government. Those invested
23 with full powers had been given instructions to suppress
24 gradually the question of disarmament, and to take a
25 calm attitude to the end.

1 "It appeared that they were carrying out their
2 instructions. These plans of rapprochement with England
3 were of the utmost secrecy and were not even discussed
4 in the cabinet meetings."

5 We next offer in evidence defense document
6 3011-H, being a further excerpt from the SAIONJI-HARADA
7 memoirs, chapter 161, for the purpose of meeting
8 prosecution exhibits 3774-A, record 37,646; 3777-B,
9 record, 37,668; and 3778-A, record 37,672.

10 THE PRESIDENT: Mr. Comyns Carr.

11 MR. COMYNS CARR: May it please the Tribunal,
12 this document does not, in fact, in our submission,
13 answer any of those. It is merely an attempt to
14 bolster up the case already made for HIROTA by the
15 witness KAWASHIMA, which was fully gone into in his
16 examination and cross-examination.

17 MR. YAMAMOTO: May it please the Tribunal,
18 I will not argue this excerpt since it is fully covered
19 by the previous ones bearing the same numbers, 3011
20 series.

21 THE PRESIDENT: By a majority, the objection
22 is overruled and the document admitted on the usual
23 terms.

24 CLERK OF THE COURT: Chapter 161 of the
25 SAIONJI-HARADA memoirs will receive exhibit No. 3873

1 for identification only. The excerpt therefrom, being
2 defense document 3011-H, will receive exhibit No. 3873-A.

3 (Whereupon, the document above
4 referred to was marked defense exhibit
5 No. 3873 for identification; the excerpt
6 therefrom, being document 3011-H, was marked
7 exhibit No. 3873-A and received in evidence.)

8 MR. YAMAOKA: I shall read exhibit No. 3873-A.

9 "I saw the Minister" -- and, incidentally,
10 I might state for the information of the Tribunal that
11 the minister referred to is Mr. HIROTA.

12 THE PRESIDENT: That is not contested, I
13 take it?

14 MR. COMYNS CARR: No, your Honor.

15 MR. YAMAOKA: (Continuing) "--who said to
16 me: 'I am going to give out a statement explaining the
17 circumstances of Japan's abrogation of the Washington
18 Treaty and also her intrinsic desire for naval dis-
19 armament so that we may have the world understand
20 Japan's true intentions. In any case, around March
21 next year various questions will crop up. Therefore
22 we have got first of all to keep a sharp and careful
23 watch on China's attitude. But at the same time we have
24 to note the fact that the powers are apprehensive lest
25 Japan should, on her abrogation of the Naval Disarmament

1 Treaty, deal with China in her own free way. With a
2 view to dispelling their misgivings, I would like to
3 have some treaty concluded with China through direct
4 negotiations with her thereby evincing forcibly the
5 security of China's territorial integrity and clarifying
6 Japan's true attitude therein."

7 We next offer in evidence defense document
8 3013-C, being another excerpt from the SAIONJI-HARADA
9 memoirs, chapter 44, in order to explain Mr. HIROTA's
10 position as related to exhibit 3780-A, which was re-
11 ceived in evidence at record 37,680.

12 THE PRESIDENT: No objection?

13 Mr. Comyns Carr.

14 MR. COMYNS CARR: May it please the Tribunal,
15 these documents were served so late and without any
16 page references on them, as your Honor will observe,
17 so that it is extremely difficult to check the omissions.

18 There is a large passage omitted in the
19 middle of this excerpt, and glancing at it, it appears
20 to me that some of it certainly ought to be included,
21 if it is admitted at all. Moreover, the last paragraph
22 is, in our submission, of no importance, and the last
23 sentence does not appear in the text at all of the
24 only translation from which my friend says he is quoting.
25

If the Tribunal should decide to admit any

1 part of it, I am now in a position to indicate the part
2 which in my submission ought not to have been omitted,
3 where the dashes occur.

4 THE PRESIDENT: By a majority, the objection
5 is overruled, provided that the omitted parts indicated
6 by Mr. Comyns Carr are read.

7 CLERK OF THE COURT: Chapter 246 of the
8 SAIONJI-HARADA memoirs will receive exhibit No. 3874
9 for identification only. The excerpt therefrom, being
10 defense document 3013-C, will receive exhibit No. 3874-A.

11 (Whereupon, the document above
12 referred to was marked defense exhibit
13 No. 3874 for identification; the excerpt
14 therefrom, being document No. 3013-C, was
15 marked exhibit No. 3874-A and received in
16 evidence.)

17 THE MONITOR: Mr. Yamaoka, if you are to read
18 the omitted portion, the Language Section wishes to
19 have the Japanese version of it to give you the simul-
20 taneous reading.

21 MR. YAMAOKA: The Japanese original is on
22 file here with the Clerk of the Court.

23 THE PRESIDENT: Unless the omitted part is
24 extensive, there is no need to go to this trouble.
25 Start reading the document.

1 MR. YAMAOKA: It consists of about fifteen
2 lines, if your Honors please.

3 THE PRESIDENT: Oh, well, that may be
4 different.

5 MR. YAMAOKA: I shall read exhibit 3874-A.

6 THE MONITOR: Mr. Yamaoka, will you have
7 someone send the Japanese original up, please.
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1 MR. YAMAOKA: May I beg the indulgence of
2 the Tribunal for a moment while this is being sent
3 up?

4 I shall read the exhibit.

5 THE MONITOR: Just a moment, Mr. Yamaoka.

6 Mr. Yamaoka will you give us a little
7 indication on the omitted portion?

8 MR. YAMAOKA: Yes. It is at the end of the
9 first paragraph of the English document, 3013-C.

10 THE MONITOR: Following the word "Disadvan-
11 tageous"?

12 MR. YAMAOKA: Yes. And the omitted part which
13 Mr. Comyns Carr desires that I should read immediately
14 follows that word "disadvantageous."

15 I shall now read this exhibit.

16 "Later I met Foreign Minister HIROTA and
17 asked him about various conditions. HIROTA said, 'For
18 the time being, I would like to carry out a non-expanding
19 settlement of this Incident; however, since any
20 direct negotiations with the Army on my part have been
21 unfavourable, I have been negotiating with them
22 through the Navy Minister. From now on, I would like
23 to act without taking the Army's feelings into too
24 much consideration. But this is a very delicate
25 problem. Regardless of this, the fact that the interior

of the Army is unsettled is very disadvantageous."

1 Here I shall read the omission which Mr. Carr
2 desires that I should include in this excerpt.

3 "Moreover, just after the incident occurred,
4 WACHI of the General Staff of the Tientsin Army
5 returned to Japan and gave a report on the Tientsin
6 Army. He objected very strongly to the actions taken
7 by the government. The reason for this was that when
8 the incident first arose, the Tientsin Army believed
9 that they would be able to settle this incident by
10 themselves. However, the government became greatly
11 alarmed and tried to pass a bill in the cabinet to
12 send three Divisions there. When the Tientsin Army
13 heard about this, they became very indignant over it.
14 It seems that they strongly denounced the fact that the
15 cabinet should become alarmed over this situation."
16

17 Then continuing the exhibit:

18 "Around the 24th, 25th and 26th, another
19 trouble broke out in North China, and the Japanese
20 Army had taken a beating from the Chinese Army. There-
21 fore, angered by their losses, the Air Corps had
22 bombed the military installations around Peiping.
23 This made the situation so difficult that greatest
24 anxiety was felt about the future."
25

May it please the Tribunal, we next offer in

1 evidence defense document 3013-D, being another
2 excerpt from the SAIONJI-HARADA Memoirs, Chapter
3 247, in order to meet and explain exhibit 3786-A,
4 which was received in evidence at record 37,698.

5 THE PRESIDENT: Mr. Comyns Carr.

6 MR. COMYNS CARR: May it please the Tribunal,
7 this doesn't appear to have anything to do with HIROTA,
8 nor has it anything to do with exhibit 3786-A, except
9 that there is a reference to this Paoting line in
10 that exhibit, I think.

11 THE PRESIDENT: Mr. Yamaoka.

12 MR. YAMAOKA: May it please the Tribunal,
13 exhibit 3786-A shows that Mr. HIROTA conferred with
14 the German Ambassador and submitted plans to settle
15 the China Incident, based upon the assumption that
16 the High Command would not advance further than the
17 Paoting line. Later this exhibit, that is to say,
18 3786-A, shows that the Army changed its attitude and
19 retracted its previous assurances.

20 This excerpt, if your Honors please, shows
21 that in so far as Mr. HIROTA was concerned, he had
22 a right to make such assurance -- that is to say, he
23 had a basis for making such assurance -- and that he
24 was not a party to the violation of any such assurance.
25

Exhibit 3786-A, if your Honors please, seems

1 to indicate that Mr. HIROTA's Foreign Minister might
2 have been a party to the breach of the assurances.

3 THE PRESIDENT: By a majority the objections
4 are overruled and the document admitted on the usual
5 terms.

6 CLERK OF THE COURT: Chapter 247 of the
7 SAIONJI-HARADA Memoirs will receive exhibit No. 3875
8 for identification only; the excerpt therefrom, being
9 defense document 3013-D, will receive exhibit No.
10 3875-A.

11 (Whereupon, the document above re-
12 ferred to was marked defense exhibit 3875
13 for identification; the excerpt therefrom
14 being marked defense exhibit No. 3875-A and
15 received in evidence.)

16 MR. YAMAOKA: May I respectfully invite the
17 attention of the Tribunal to the fact that the chapter
18 number is missing on this excerpt, but it should be
19 Chapter 247.
20

21 I shall read exhibit 3875-A.

22 "On August 3 MATSUDAIRA, Chief Secretary to
23 the Lord Keeper of the Privy Seal, told me that on
24 August 2 the Chief of the General Staff proceeded to
25 the Palace and said to the Emperor that the Army would
send the troops as far as the Paoting line but would

1 not extend the battlefield farther than that."

2 We next offer in evidence defense documents
3 3014 and 3014-A, being further excerpts from the
4 SAIONJI-HARADA Memoirs, Chapter 249, for the purpose
5 of amplifying exhibit 3781-A, which was received in
6 evidence at record 37,687.

7 Defense document 3014, now being presented,
8 includes exhibit 3781-A; hence, in offering this
9 document we do not propose to read that part which
10 is already in evidence, except the first line of
11 said exhibit which shows that Mr. HIROTA was speaking
12 as Foreign Minister.

13 Also I beg to invite the attention of the
14 Tribunal to the fact that this document, from the
15 last three words of the last line of the first page
16 through the first six lines of page 2, to the words
17 "it was decided that", is partially included in
18 defense document 3014-A, and in this sense there is
19 a slight duplication.
20

21 Defense document 3014-A is an excerpt covering
22 an important omission from exhibit 3781-A. We therefore
23 propose first, to read defense document 3014; second,
24 to omit the portion thereof as has been received in
25 evidence and read as exhibit 3781-A; third, to read
defense document 3014-A at its proper place in the

38,660

1 reading of defense document 3014 and lastly, finish
2 the reading of the balance of defense document 3014
3 and in this manner to give complete continuity as
4 it appears in the original.
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1 THE PRESIDENT: Mr. Comyns Carr.

2 MR. COMYNS CARR: May it please the Tribunal, we
3 strongly object to this document, or these two documents
4 which, I gather, are now being submitted together. They
5 are a jumble of excerpts taken from no less than seven
6 pages of the diary and put together.

7 My friend says that this document includes
8 prosecution exhibit 3781-A. It includes part of it, but
9 omits the most important part, or one of the most import-
10 ant parts, and if the Tribunal were to read this under
11 the impression that they had the whole thing they would
12 be gravely misled.

13 The rest of it, which is not in the exhibit, is
14 in our submission entirely irrelevant and doesn't assist
15 this Tribunal to understand what is in the exhibit or for
16 any other purpose.

17 The first piece, down to the first line of
18 dashes, contains nothing new about the Shanghai incident.
19 The piece from there down to the end of the first para-
20 graph merely contains the interesting information that
21 the Navy Minister shouted at the Finance Minister in the
22 Cabinet meeting.

23
24 THE PRESIDENT: It also says that HIROTA was
25 weak.

MR. COMYNS CARR: That is the last part, your

1 Honor, yes.

2 The end of the first paragraph says that HIROTA
3 made an unspecified alteration in a proclamation, the
4 subject of which is not mentioned.

5 The second paragraph is irrelevant. The third
6 paragraph is our exhibit, which is already in evidence,
7 except, as I say, that they have omitted the last sent-
8 ence which is the most important part of it. That comes
9 after the dashes in line 6 or 7. Then, the rest of it,
10 in my submission, is of no value to the Tribunal what-
11 ever. The last portion about ARITA being sent to con-
12 duct some negotiations is already in evidence in much
13 greater detail.

14 Then, I gather, my friend is also submitting
15 3014-A at the same time.

16 THE PRESIDENT: Yes, he is.

17 MR. COMYNS CARR: In that, the only sentence of
18 importance is the one in the middle: "Though some advo-
19 cate the withdrawal of troops or acting as the interested
20 nations suggest, such actions cannot possibly be taken
21 now."
22

23 In my submission, the whole of both documents
24 should be rejected.

25 MR. YAMAOKA: May it please the Tribunal, the
purpose of this tender is to show that HIROTA opposed

1 the sending of troops to Shanghai since such action would
2 prejudice negotiations for peaceful, diplomatic settle-
3 ment at that time. And it is offered also for the pur-
4 pose of explaining why, in exhibit 3781-A, the mobil-
5 ization orders were not announced.

6 THE PRESIDENT: By a majority the objection is
7 sustained and the documents rejected.

8 MR. YAMAOKA: We next offer in evidence defense
9 document 3015-A, being another excerpt from the SAIONJI-
10 HARADA Memoirs, Chapter 251, for the purpose of counter-
11 acting and explaining exhibits 3783-A, record page 37,692
12 3785-A, record page 37,697. This excerpt is a continu-
13 ation of exhibit 3783-A, which was offered by the prose-
14 cution from these same Memoirs.

15 THE PRESIDENT: Any objection?

16 Mr. Comyns Carr.

17 MR. COMYNS CARR: Yes, your Honor. May it
18 please the Tribunal, it doesn't explain anything in con-
19 nection with exhibit 3783-A. That exhibit was put in for
20 the purpose of showing HIROTA's own statement as to the
21 terms which he wished to demand. This document doesn't
22 throw any light at all on that. It merely deals with the
23 details as to the manner in which it was desired that
24 those terms should be put forward.
25

In our submission, it is of no importance.

MR. YAMAOKA: May it please the Tribunal, exhibit

1 3783-A discloses the Craigie-HIROTA negotiations regard-
2 ing the five conditions to arrive at the settlement of
3 the China Affair. This excerpt explains further the
4 negotiations between the parties and gives a complete
5 picture and confirms the HORINOUCI testimony, record
6 pages 29,740 and 29,766. It is also explanatory of Mr.
7 Grew's affidavit, exhibit 3716-B. Exhibit 3785-A, if
8 your Honors please, shows that Mr. HIROTA preferred
9 British intervention as opposed to Germany or Italy, and
10 this excerpt explains Mr. HIROTA's reasons as well as
11 his endeavors in this connection.

12 THE PRESIDENT: By a majority the objections are
13 sustained and the document rejected.

14 We will adjourn until half past one.

15 (Whereupon, at 1200, a recess was
16 taken.)

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The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Well, what is the next business? Counsel should be punctual.

Captain Kraft.

LANGUAGE ARBITER (Captain Kraft): If the Tribunal please, the following language correction is submitted:

Certificate for exhibit No. 3845, line 3 and line 7. Delete "Higher office" and substitute "Superiors."

THE PRESIDENT: Mr. Yamaoka, the Judges have been served with copies of the prosecution summation covering, I should say, about six hundred pages. If that much has been supplied to the defense, I suppose you will not require any further action for the time being at all events.

MR. YAMAOKA: If your Honors please, I do not believe that it has been distributed to defense counsel yet.

THE PRESIDENT: I have appointed four o'clock this afternoon for a conference of the Judges who conferred

1 with the Chief of Counsel and defense counsel in Novem-
2 ber, in addition to myself. If you have as much of the
3 summation as we have received there will be no need for
4 that conference.

5 MR. YAMAOKA: We haven't received it yet, if
6 your Honors please, and --

7 THE PRESIDENT: Well, at least some of the
8 Judges would like to see you get it. I cannot speak
9 for them all because I have not consulted them all.

10 MR. YAMAOKA: Moreover, if your Honors please,
11 may I inquire whether that is the complete summation by
12 the prosecution?

13 THE PRESIDENT: Some six or seven hundred pages.

14 MR. YAMAOKA: I am given informally to under-
15 stand that that is not the complete summation.

16 THE PRESIDENT: It is not a complete summa-
17 tion. An index of the whole has been supplied with it,
18 and certainly it is not the complete summation.

19 MR. YAMAOKA: I have passed, Mr. President, your
20 Honor's notice to our entire section for a conference
21 today at four o'clock, but if your Honor does not desire
22 to hold the meeting, why, I shall pass the required
23 notice around to our section.

24 THE PRESIDENT: The meeting will not be held if
25 you get as much of the prosecution summation as we have

already.

1 MR. YAMAOKA: I can only assure the Tribunal
2 that we have not as yet received it. We probably will,
3 but not as yet.

4 THE PRESIDENT: We will proceed with the order
5 of proof.

6 MR. YAMAOKA: We next offer in evidence defense
7 document 3016, a further excerpt from the SAIONJI-
8 HARADA Memoirs, chapter 254, dated 3 November 1937, for
9 the purpose of explaining prosecution exhibit 3784-A
10 which was received in evidence at record page 37,695.

11 I invite the attention of the Tribunal to the
12 fact that this document is captioned under date of
13 25 October 1937, but this is an error and should be dis-
14 regarded.

15 This excerpt contains a paragraph preceding
16 prosecution exhibit 3784-A, and the last two lines of
17 this document, defense document 3016, contain the sentence
18 which completes the paragraph introduced as prosecution
19 exhibit 3784-A.

20 THE PRESIDENT: Mr. Comyns Carr.

21 MR. COMYNs CARR: May it please the Tribunal,
22 I happen to have exhibit 3784-A before me, and in my
23 submission this document throws no light on the point of
24 that exhibit, which is that HIROTA said to the
25

industrialists, "In the end we may have to fight Eng-
land but to make trouble at this moment is inconvenient
to the government."

In my submission this document adds nothing to
that.

MR. YAMAOKA: May it please the Tribunal, I
respectfully submit that exhibit 3784-A has the statement
in it which was just quoted by my learned friend. How-
ever, if this excerpt is taken together with that ex-
hibit we find that the words quoted in the exhibit can
be taken in a different light when the whole text is
read, and if this tender is accepted it will be seen
that the statement contained in exhibit 3784-A resulted
actually in arresting the further spread of the anti-
British movement and that the industrialists agreed to
forego any further action in pursuing that course.
Prosecution exhibit 3784-A does not disclose this, and
therefore we respectfully submit that this tender is
important and has probative value.

THE PRESIDENT: By a majority the objection is
sustained and the document rejected.

MR. YAMAOKA: We next offer in evidence defense
document 3017, being a further excerpt from the SAIONJI-
HARADA Memoirs, chapter 257, for the purpose of ampli-
fying and explaining exhibit 3786-A introduced by the

1 prosecution at record page 37,698. This excerpt is a
2 continuation of exhibit 3768-A.

3 THE PRESIDENT: Mr. Comvns Carr.

4 MR. COMYNS CARR: May it please the Tribunal,
5 this long excerpt contains nothing that is not already
6 in exhibit 3786-A. The point is that HIROTA is alleged
7 to have told -- alleged in both 3786-A and in this
8 document -- to have told the Chinese that new and
9 stronger terms would be presented as the advance pro-
10 gressed. The fact is that according to other evidence
11 in the case he had told them the exact opposite. This
12 document merely repeats the exhibit we already have.

13 THE PRESIDENT: Mr. Yamaoka.

14 MR. YAMAOKA: May it please the Tribunal, the
15 exhibit 3786-A may create the inference that HIROTA
16 was a party to the volte-face regarding the assurance
17 given by him that the army would not advance beyond the
18 Paoting Line. However, if this excerpt which is a con-
19 tinuation only of the prosecution exhibit is read to-
20 gether, then, it is submitted, it will be perceived beyond
21 peradventure that HIROTA was not a party to any of these
22 army machinations.

24 THE PRESIDENT: By a majority the objection is
25 overruled and the document admitted on the usual terms.

CLERK OF THE COURT: Defense document 3017

1 will receive exhibit No. 3876.

2 (Whereupon, the document above re-
3 referred to was marked defense exhibit No.
4 3876 and received in evidence.)
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1 MR. YAMAOKA: May I invite the attention
2 of the Tribunal to a slight correction in the caption?
3 The date of December 6 should be December 7, and the
4 chapter should be inserted, which is Chapter 257.

5 I shall now read exhibit 3876:

6 "We have got an understanding with the other
7 side that the terms will vary with the change of the
8 war situation, but the junior officers of the army,
9 entirely ignorant of such circumstances, said that the
10 fault was with HIROTA, who has too early confided our
11 real intention to the other side. We are annoyed to
12 have the members of the General Staff, including KAGAWA,
13 threatening clamorously since yesterday that HIROTA
14 should be killed or apprehended. Just at noon on
15 December 8 the War Minister came and said that he would
16 dine with the Prime Minister KONOYE" --

17 THE PRESIDENT: December 8 can't be right.

18 MR. YAMAOKA: I will have that checked, if
19 your Honors please.

20 THE PRESIDENT: You have already corrected
21 the date at the head. We take that to be accurate.
22 Well, check it later.

23 MR. YAMAOKA: May I continue reading, if your
24 Honors please?

25 THE PRESIDENT: Yes.

1 MR. YAMAOKA (continuing reading): "When he
2 told it to the War Minister, the latter said that he
3 would tell the Chief of the Second Section beforehand
4 to keep it secret, for it would be troublesome if the
5 middle-class officers should hear about it. Already at
6 that time, however, the junior officers, including
7 KAGESA, of the General Staff and the War Ministry were
8 exceedingly angry to learn it.'

9 "After that I went back home, and about half
10 past four I called again at the official residence of
11 the Minister of the Navy. As I spoke of the above-
12 mentioned matter in the presence of the Minister and the
13 Vice-Minister of the Navy, they both answered to the follow-
14 ing effect: The fault was rather with the Army. Both
15 the Army and the Navy once wanted to cease war as soon
16 as possible, when the General Staff was so intent on a
17 peace move through the medium of Major-General Ott,
18 the military attache to the German Embassy at Tokyo,
19 that it pressed the Foreign Ministry for negotiation.
20 Since then, the negotiation has been continued by the
21 Foreign Minister. As I have repeatedly stated, the
22 Army, Navy and Foreign Ministers have once a week dined
23 together to talk about diplomacy and arrived at a mutual
24 understanding. Accordingly, nothing should happen so
25 long as the Army is well controlled. We will argue for

1 the Foreign Minister that such a hitch has taken place
2 because the Army failed to inform the Foreign Ministry,
3 even if through the medium of the Prime Minister, of
4 the change of the operations plans according to the
5 change of the war situation, in order to keep a close
6 communication with the diplomatic authorities. So we
7 ought not to reproach the Foreign Minister only.

8 "At any rate, Foreign Minister HIROTA has
9 previously sought an understanding with the other side
10 that we might present new terms, so there is no objec-
11 tion to submitting newly stronger terms. The fact is,
12 those who wanted to attack and exclude HIROTA took
13 this opportunity to cause trouble, in spite of the fact
14 that there was no question whatever, because we have
15 an understanding with the other side that the above-
16 mentioned terms corresponded to the then situation and
17 that the former would vary according to the change of
18 the latter. The Lord Keeper of the Privy Seal was also
19 angry at the embarrassing attitude of the Army toward
20 the present problem on diplomacy."

21 "Your Honors, I am advised that the date at the
22 top of the excerpt should be December 10, 1937, instead
23 of the 7th.

24 "The next offer in evidence defense document
25 3018-A, a further excerpt from the SAIONJI-HARADA

1 Memoirs, Chapter 260, for the purpose of showing that
2 the matters set forth in exhibits 3788-A, record
3 37,709, and exhibit 3789-A, record 37,718, were related
4 to the German ambassador and his reaction thereto.

5 I propose to read only the portion of this
6 document shown in brackets, since the preceding part
7 was already introduced in evidence as part of exhibit
8 3789-A, and these last lines are a continuation of
9 the subject and complete the excerpt submitted by the
10 prosecution.

11 THE PRESIDENT: You had better read the lot
12 if you read any.

13 Mr. Comyns Carr.

14 MR. COMYNS CARR: These last few lines are
15 merely an opinion attributed by HIROTA to the German
16 Ambassador, which is the precise opposite of what the
17 German Ambassador in an exhibit has recorded as being
18 the opinion he expressed to HIROTA. If my friend likes
19 to put in four lines to show that HIROTA made another
20 false statement, I have no objection.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Defense document 3018-A
23 will receive exhibit 3877.
24

25 (Whereupon, the document above re-
ferred to was marked defense exhibit 3877 and

received in evidence.)

1 THE PRESIDENT: It is pointed out to me that
2 that date "1937" should be "1938."

3 MR. YAMAOKA: Yes, it should be, if your
4 Honors please.

5 I shall read exhibit 3877:

6 "Then I spoke to the Foreign Minister by
7 phone on the 18th morning, he said: 'As the Chinese
8 Government failed to accept the proposal (determined
9 by the Japanese Government), the Council held in the
10 presence of His Majesty arrived at a decision to
11 launch into the alternative plan.' (The foregoing was
12 related to the German Ambassador and his reply was:
13 'To be sure, there is nothing more that could be done
14 under the circumstances. I shall explain it in detail
15 to the Ambassadors and Ministers of all nations.')

16 We next offer in evidence defense document
17 3035, being a further excerpt from the SAIONJI-HARADA
18 Memoirs, Chapter 338, for the purpose of showing that
19 contrary to the prosecution's contention, HIROTA was
20 persona non grata with the military.

21 THE PRESIDENT: Mr. Comyns Carr.

22 MR. COMYNS CARR: May it please the Tribunal,
23 the extract from the diary which we tendered and which
24 showed that HIROTA's opinion coincided with that of the
25

1 military on the question of the German Japanese alliance
2 was rejected by the Tribunal. If it had been admitted
3 it might perhaps have been admissible to introduce this
4 document, although there is nothing in this document
5 in fact to the contrary. If this document is admitted
6 now, I would ask the Tribunal also to admit the one
7 which they previously rejected, because, in my sub-
8 mission, it would be clearly unfair to have the one with-
9 out the other.

10 THE PRESIDENT: Mr. Yamaoka.

11 MR. YAMAOKA: May it please the Tribunal, the
12 many excerpts introduced by the prosecution from the
13 SAIONJI-HARADA Memoirs purport to show that Mr. HIROTA
14 agreed with the army in its views. This excerpt is
15 tendered for the purpose of combatting that, and we
16 therefore submit that it is important and has probative
17 value. Furthermore, I might state there is the charge
18 of general conspiracy from 1928 to 1945 against Mr.
19 HIROTA, and this excerpt is tendered as non-cooperation
20 and opposition to the army and the General staff. We
21 respectfully submit that it may have an important bear-
22 ing on the accused's mens rea.
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1 THE PRESIDENT: Are you prepared to read
2 the document that was rejected when the prosecution
3 tendered it?

4 MR. YAMAOKA: Yes, if your Honors please, on
5 condition this is read together, I have no objection.

6 MR. COMYNS CARR: Unfortunately I do not have
7 that volume here with me at the moment, your Honor.
8 Might it be read later?

9 THE PRESIDENT: There is a majority to admit
10 this unconditionally, but two Members would like the
11 prosecution's document read also. However, go ahead
12 with this.

13 The objections are overruled and the document
14 admitted on the usual terms.

15 CLERK OF THE COURT: Defense document 3035
16 will receive exhibit No. 3878.

17 (Whereupon, the document above
18 referred to was marked defense exhibit
19 No. 3878 and received in evidence.)

20 MR. YAMAOKA: I shall read exhibit 3878:

21 "KIDO, KONOYE and the Lord Keeper of the Privy
22 Seal have agreed that HIROTA was the number one candi-
23 date. The three have sent me with the message to ask
24 you to sound out HIROTA's personal opinion. Before
25 that, will you please go to Gotemba and solicit the

Genro's (Prince SAIONJI) opinion. It is the request
1 of the Lord Keeper of the Privy Seal and the others
2 that if the Genro has no objection, they would like
3 you to go immediately and secretly to see HIROTA.'

4 * * *

5 "On the 24th, I (HARADA) visited Prince
6 SAIONJI at Gotemba. I gave him a complete report
7 from beginning to end, such as: HIROTA, the former
8 Premier, was the number one candidate and General
9 UGAKI was number two.

10 "In the afternoon I made arrangements with
11 HIROTA and met him at his relative's villa at Kugenuma.
12 From 3:30 p.m. until around 4:30 p.m., we discussed
13 various matters. I felt somehow that he was undepend-
14 able.
15

16 * * *

17 "There was an indication that he wanted to
18 receive more concrete instructions from the Lord
19 Keeper of the Privy Seal about the formation of the
20 Cabinet, and I felt that he wouldn't be any help.
21 We know that HIROTA, from the standpoint of character
22 and experience, is a very righteous man. However, he
23 is a diplomat, and is very ignorant about internal
24 affairs. With the feeling that this was very dis-
25 heartening, I left, promising HIROTA I'd give the

matter careful consideration.

1 " * * *

2 "On the night of the 24th, when I (HARADA)
3 returned home, there was a phone call from Tokyo
4 telling me: 'Feelings of ostracism against HIROTA
5 are high at General Staff Headquarters. The Army, as
6 a whole, is starting an expulsion movement against
7 HIROTA'. . . I, (HARADA) phoned HIROTA and said:
8 'I talked to you for a short while yesterday. The
9 Army is very clamorous, and you were worried about the
10 Army. It would be advantageous in every respect if
11 you would give us a definite answer.' He replied:
12 'The fact is, I was just thinking of phoning you and
13 declining definitely. Will you please inform the
14 Lord Keeper of the Privy Seal that I do not have the
15 confidence at this time.' I transmitted his request
16 to MATSUDAIRA; and MATSUDAIRA transmitted it to the
17 Lord Keeper of the Privy Seal."
18

19 That concludes the evidence on behalf of
20 Mr. HIROTA.

21 THE PRESIDENT: Mr. Mattice.

22 How many documents have you, Mr. Mattice?

23 MR. MATTICE: The answer to that, if the
24 Tribunal please, is none. I was about to report that
25 on behalf of the accused ITAGAKI we have not been able

1 to make ready to proceed at this time. We desire to
2 do so, however. Documents are in process of trans-
3 lation; perhaps it will be three days.

4 THE PRESIDENT: How many documents have you?

5 MR. MATTICE: There will be three witnesses,
6 therefore three affidavits; one document; so that it
7 will not take very long when we are ready.

8 THE PRESIDENT: But you should be ready in
9 less than three days.

10 MR. MATTICE: I shall be very happy, sir, if
11 we are.

12 THE PRESIDENT: You will do all in your
13 power to insure that you will be, Mr. Mattice.

14 LANGUAGE ARBITER (Captain Kraft): If the
15 Tribunal please, the following language corrections
16 are submitted:

17 Exhibit No. 627, second paragraph, line 13,
18 and record page 6,973, line 7. Delete "us" and sub-
19 stitute "the government." Next two lines, delete
20 "even though matters stand as they do" and substitute
21 "in such a way as it intends to do."

22 Exhibit No. 1294, line 13 and record page
23 11,709, line 1. Insert "I (ARITA) think" between
24 "However," and "since."

25 Exhibit No. 2261, lines 9-13, and record page

1 16,225, lines 4-7. Delete the statement beginning
2 with "Before making" and ending with "the impasse,"
3 and substitute "Therefore, with regard to the statement
4 issued that we will not deal with the Chiang Regime,
5 it will be necessary to give due consideration and
6 provide means whereby it could be successfully
7 handled."

8 THE PRESIDENT: Mr. Logan.

9 MR. LOGAN: If the Tribunal please, sir, I
10 wish to offer further evidence on behalf of the accused
11 KIDO.

12 We offer in evidence defense document 2989,
13 exhibit 3753 for identification, which is an excerpt
14 from KIDO's Diary for February 27, 1937.

15 Apparently among other reasons in order to
16 attack the credibility of a statement that KIDO made
17 to the effect that HARADA was ill for two or three
18 months from February 1937, the prosecution secured and
19 introduced affidavits from Mrs. KONOYE and Dr. MURAYAMA.
20 Dr. MURAYAMA claimed he was Baron HARADA's only physician,
21 record page 37,449, and even after defense document
22 2989, which is now offered, was read to him, he still
23 denied any recollection of Baron HARADA's having had
24 paralysis, nervous prostration or any illness in 1937,
25 record page 37,457-37,458. He also testified that the

1 16,225, lines 4-7. Delete the statement beginning
2 with "Before making" and ending with "the impasse,"
3 and substitute "Therefore, with regard to the statement
4 issued that we will not deal with the Chiang Regime,
5 it will be necessary to give due consideration and
6 provide means whereby it could be successfully
7 handled."

8 THE PRESIDENT: Mr. Logan.

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10 wish to offer further evidence on behalf of the accused
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16 attack the credibility of a statement that KIDO made
17 to the effect that HARADA was ill for two or three
18 months from February 1937, the prosecution secured and
19 introduced affidavits from Mrs. KONOYE and Dr. MURAYAMA.
20 Dr. MURAYAMA claimed he was Baron HARADA's only physician,
21 record page 37,449, and even after defense document
22 2989, which is now offered, was read to him, he still
23 denied any recollection of Baron HARADA's having had
24 paralysis, nervous prostration or any illness in 1937,
25 record page 37,457-37,458. He also testified that the

1 first time Baron HARADA had thrombosis of the brain
2 or paralysis was in August 1933, record page 37,448-9
3 and 37,451-2. Mrs. KONOYE also denied on cross-
4 examination any remembrance of this illness in 1937,
5 record page 37,490, and she stated on direct examina-
6 tion that he was only sick on one day, February 23,
7 1937, record page 37,464; and on cross-examination she
8 said she thought he had a cold, record page 37,490.

9 THE PRESIDENT: Mr. Comyns Carr.

10 MR. COMYNS CARR: May it please the Tribunal,
11 prosecution doesn't object to this document but it
12 does object to some of the statements my learned
13 friend has just made.

14 Mrs. KONOYE did not say that Baron HARADA
15 was only sick on one day at this period, February 23.
16 What she did say was that the diary showed that he was
17 sick on that day and that there was no record in the
18 diary of his going out again until March 3. That is
19 eight days. The document my friend is now tendering
20 shows that he was, in fact, out again on the 27th,
21 four days after he was recently taken ill.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Defense document 2989
24 will receive exhibit No. 3879.
25

(Whereupon, the document above

referred to was marked defense exhibit
No. 3879 and received in evidence.)

MR. LOGAN: Defense document 2989, exhibit
3879, excerpt from KIDO's Diary, February 27, 1937
is as follows:

"At half-past eight HARADA called at my
home. I was greatly surprised to learn that he was
suffering from nervous prostration and that the left
half of his body was semi-paralysed. I advised him
urgently to take care of himself."

For the same reasons as expressed upon the
introduction of the exhibit just read we offer in
evidence defense document 3045, being the affidavit
of Dr. SASSA, one of the doctors who treated Baron
HARADA. I understand that the prosecution do not
desire to have this witness called but that they have
objections to the document.

MR. COMYNS CARR: That is right, your Honor.

MR. LOGAN: I might state, if the Tribunal
please, that this affidavit is based on the doctor's
clinical diaries which we have in court and which we
are willing to deposit if the prosecution desires it.
Of course, we haven't had the opportunity to deposit
them seven days ago.

THE PRESIDENT: Mr. Comyns Carr.

1 MR. COMYNS CARR: Your Honor, the prosecution
2 wouldn't trouble about that.

3 THE PRESIDENT: This is about his condition
4 after the diary ended.

5 MR. COMYNS CARR: Yes, that is what I object
6 to. That was the objection I was going to make, your
7 Honor. In our submission it is irrelevant. The only
8 reference to his previous condition is something he
9 apparently told the doctor from memory about an occur-
10 rence at an unspecified previous date.

11 MR. LOGAN: If the Tribunal please, with
12 respect to the last statement this document clearly
13 shows that in obtaining his history, which my friend
14 says was from memory -- and practically all of HARADA's
15 Memoirs were from his memory -- that he told him that
16 he had had difficulty two or three years prior to
17 1941; and also in obtaining this history in 1942 he
18 told him about this attack that he had had five or six
19 years prior to that, which would bring it back to 1937.

20 This document contradicts Dr. MURAYAMA's
21 testimony when he claimed that he was Baron HARADA's
22 only physician. The document shows that he had at
23 least four doctors. Dr. MURAYAMA testified that the
24 first time he had had paralysis or thrombosis of the
25 brain was in August 1943. This document shows that on

1 March 15, 1941 he was treated for a condition which
2 apparently was the outcome of something he had had
3 two or three years prior to 1941. It also contra-
4 dicts Dr. MURAYAMA's testimony in that he shows that
5 his condition was diagnosed in August 1942 as
6 thrombosis of the brain, one year earlier than when
7 Dr. MURAYAMA said he treated him for the first time.

8 For that reason we believe that it is also
9 admissible on the ground that it corroborates the
10 statements made by Marquis KIDO, and this proves the
11 attack that the prosecution made in trying to attack
12 his credibility.

13 I do not intend to read the entire document.
14 The learned prosecutor has the parts which I have
15 marked which I intend to read.

16 THE PRESIDENT: By a majority the objection
17 is overruled and the document admitted on the usual
18 terms.

19 CLERK OF THE COURT: Defense document 3045
20 will receive exhibit No. 3880.

21 (Whereupon, the document above
22 referred to was marked defense exhibit
23 3880 and received in evidence.)
24

25 MR. LOGAN: I now read defense document
3045, exhibit 3880:

1 "I, Rempei SASSA, having first been duly
2 sworn, do depose and say:

3 "I have been duly licensed to practice
4 medicine in Japan for the past 33 years specializing
5 in internal medicine only. I am not a specialist in
6 arteriosclerosis or diseases of the brain. I knew
7 Baron HARADA as a friend for many years but I never
8 treated him professionally until March 15, 1941.

9 "I have practically all of my medical records
10 of my treatment of patients since the earthquake of
11 1923. In reviewing my records I find the following
12 appearing therein with respect to my treatment of
13 Baron HARADA, Kumao. The following is found in my
14 145th volume:

15 "Initial diagnosis of Mr. HARADA, Kumao:

16 "On 15 March 1941"--I will skip the next two
17 lines.

18 "About two or three years ago he experienced
19 being suddenly reduced to a condition incurring
20 difficulty in speaking in front of the Oiso station.

21 "Dr. Ryuko SASAKI came to examine him, as a
22 result of which he was forbidden to take meat and to
23 smoke."
24

25 I will merely call the Tribunal's attention
to another doctor, SONEDA, whose name appears in the

1 next paragraph as, apparently, having given him some
2 injections. I will commence with the first sentence
3 on page 2:

4 "8 March"--

5 THE PRESIDENT: I think you should read the
6 diagnosis and the prognosis on the second page.

7 MR. LOGAN: I intend to.

8 "8 March: He consulted Dr. KATSUNUMA of the
9 Nagoya University."

10 It might be quicker to read all of this, if
11 the Tribunal please, than all these interruptions.

12 "Extreme enlargement of heart noticed. Two
13 pieces of x-ray photographs taken. An examination was
14 made of the electro-cardiogram. Condition worse since
15 last night. Pulse rapid, shortness of breath felt
16 with some coughing and expectorating.

17 "Condition. Fat, obesity; traces of cyanosis
18 visible; pulse - up to 120, regular, alternating pulse;
19 blood pressure - 180-130; rapid breathing; apex heat;
20 impalpable, about two finger's breadth outward by
21 percussion note.

22 "Second aortic sound, accentuated; lung region:
23 in the lower part on both sides, especially in the
24 right part, rale, audible, moderate; liver, palpable,
25 lower border of liver; impalpable; traces of oedema in

lower limbs.

1 "Diagnosis: Cardiac weakness, as a result
2 of high blood pressure with fat heart.

3 "Treatment: Prognosis - good; continuous
4 attention for a week or two necessary.

5 "During 1941 I treated Baron HARADA on the
6 following dates: March 15, 1941; March 27, 1941.
7 April 26, 1941 and May 31, 1941. The next time I saw
8 him professionally was August 22, 1942. My clinical
9 diary from the 152d volume shows the following:
10

11 "Saturday, 22 August 1942 (1:40 p.m. - 5:20
12 p.m.) Mr. HARADA, Kumao; age 55.

13 "Final diagnosis - 31 May last year.

14 "This time his condition changed for the
15 worse on his way back to Tokyo from Karuizawa when
16 passing somewhere around Annaka. Hereupon he went to
17 Shimbashi accompanied by his wife (who had come to
18 meet him at the Ueno Station) where he was shown into
19 the station master's room, and sent for Dr. MURAYAMA.
20 Then, he left for Oiso with Dr. Murayama. He was seen
21 yawning in the train. Somewhere around at Tsujido,
22 half the part of his body was seen in bad condition
23 and his tongue rather thick. Got off at Oiso at night
24 (10:28 p.m.). Mr. () was at the station to
25 meet him. He was unable to speak but could walk quite

1 well. He lay down for about ten minutes on returning
2 home, owing to which his tongue condition improved
3 and his words, though inarticulate, were more or less
4 understandable.

5 "A dose of C.I. (grams or c.c.) of Ruminahr
6 (T.N.) was taken by him. Little sleep. This morning,
7 speaking inarticulate. No fever. About five or six
8 years ago, his left arm and leg became numb, but had
9 recovered after a week or so.

10 "Main Complaints: Unable to speak. Something
11 wrong with his right hand. Legs normal. Blood
12 pressure as usual - 150-95.

13 "Consciousness clear; countenance natural;
14 tongue - extremely to the right, unable to speak;
15 pupil - nothing peculiar; pulse 80, regular; tension
16 of pulse, rather strong; apex heat, two fingers'
17 breadth outward from the 6th intercostal space and
18 mamillary line; lung - nothing abnormal; no oedema in
19 lower limb; knee jerk - strong; both right and left
20 equal; cremasteric reflex - left (plus, plus), right
21 (plus); perception - normal; grip - left hand stronger
22 than right; unable to write with the right hand - left,
23 normal.
24

25 "Diagnosis: Paresis of the right half part
of body and there is fear of aphasia. Thrombosis of

the brain.

1 "The complete list of the various dates on
2 which I treated Baron HARADA appears on the attached
3 sheet marked Exhibit A and is taken from my clinical
4 diary.
5

6 "From 1942 on Dr. SONEDA was the doctor in
7 charge of Baron HARADA's case and Dr. MURAYAMA also
8 treated Baron HARADA and each knew that the other was
9 treating him."
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1 MR. LOGAN: I shan't read exhibit A which is
2 attached to it. I merely call the Court's attention
3 to the various dates on which the doctor treated him
4 from 1941 up to the time of his death.

5 Defense document 3044 is offered in evidence.
6 This is an excerpt from the HARADA Memoirs dated December
7 27, 1937. Prosecution exhibit 3788-A, an excerpt from
8 the HARADA Memoirs of December 21, 1937, record pages
9 37,710 - 37,712, was admitted in evidence although parts
10 of it were not put to KIDO when he took the stand.

11 If the HARADA Memoirs have any value at all this
12 excerpt is offered for the purpose of showing what Prince
13 SAIONJI said when HARADA told him about the efforts for
14 peace as set forth in Exhibit 3788-A; that Prince
15 SAIONJI, like KIDO, was also worried at the haste of the
16 General Staff Headquarters in rushing the settlement of
17 the China Incident and particularly that Germany as a
18 mediator might trick Japan. That was the basis for
19 KIDO's contention that the peace terms be abstract but
20 that they cover everything.

21
22 THE PRESIDENT: No objection? Admitted on the
23 usual terms.

24 CLERK OF THE COURT: Defense document 3044 will
25 receive exhibit No. 3881.

1 (Whereupon, the document above
2 referred to was marked defense exhibit
3 No. 3881 and received in evidence.)

4 MR. LOGAN: Defense document 3044, exhibit
5 3881, is as follows:

6 "Excerpt from SAIONJI-HARADA Memoirs.

7 "Chapter 259. "27 December, 1937

8 "On the 23rd, I went to Okitsu and submitted
9 to the Prince the reports of my above-mentioned inter-
10 views. The Prince said: 'Is this "German Mediation"
11 to be carried on by the German government or by some
12 German individuals? Moreover it seems that we should
13 definitely punish the responsables for the bombardment
14 of the British ship as it would likely open up for us
15 a favorable way for subsequent diplomatic negotiations.'
16 The Prince was also greatly concerned about the reasons
17 for and the manner of hurrying through these peace
18 negotiations."

19 We offer in evidence defense document 3043.

20 THE PRESIDENT: Admitted on the usual terms.

21 MR. LOGAN: I haven't finished my -- I am wait-
22 ing for the distribution, if the Tribunal please.

23 This is an excerpt from HARADA's Memoirs,
24 Chapter 333, July 18, 1939, offered for the following
25 purposes:

1 In prosecution exhibit 3799-A, HARADA Memoirs
2 of April 20, 1939, record pages 37,789-37,792, KIDO is
3 supposed to have had a conversation with HARADA about
4 the rightists. HARADA said: "I could not understand
5 KIDO's attitude in regard to this," record page 37,790.
6 Defense document 3043, now being offered, shows that
7 KIDO explained to HARADA how he intended to deal with
8 the anti-British demonstrating rightists.

9 THE PRESIDENT: Mr. Comyns Carr.

10 MR. COMYNS CARR: Prosecution objects to this
11 document. It has no relation to the one to which my
12 friend has referred but it does relate closely to a
13 document we tendered of about the same date on this very
14 subject of dealing with the anti-British demonstrations
15 but which the Tribunal rejected.

16 Again we object very strongly to the defense
17 tendering a document when our offer of a document on
18 the very same point has been rejected and there is
19 nothing in the record to show our side of the case on
20 this matter.

21 MR. LOGAN: On the contrary, if the Tribunal
22 please, this document 3799-A to which I just referred --
23 prosecution exhibit -- refers to KIDO's attitude about
24 the rightists, and HARADA said at that time he couldn't
25 understand KIDO's attitude. While it is true that the

1 prosecution's document was rejected as not having any
2 probative value apparently on the ground that it had
3 been previously covered by other documents about the
4 rightists, still I believe we have the right to show
5 that HARADA finally understood KIDO and what course he
6 intended to take in order to suppress these anti-British
7 demonstrating rightists.

8 MR. COMYNS CARR: Your Honor, if I might
9 just --

10 THE PRESIDENT: By a majority the objection
11 is sustained and the document rejected.
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1 Mr. LOGAN: Defense document 3042, HAHADA
2 Memoirs, Chapter 364 of June 4, 1940, is offered in
3 evidence. This answers exhibit 3799-A, record page
4 37,789. The prosecution claim that this exhibit,
5 HAHADA Memoirs of April 20, 1939, record page 37,784,
6 shows that HAHADA took grave exception to KIDO's
7 attitude to the Emperor and also that it shows, page
8 37,788, that KIDO expressed the desire to have the
9 Emperor accept what the Army and Rightists wanted.

10 The importance of the document offered is that
11 prosecution exhibit 3799-A which HAHADA is supposed to
12 have written and SAIONJI is supposed to have edited
13 and approved must be either erroneous or grossly mis-
14 translated as these men would never have recommended
15 KIDO to the position of Lord Keeper of the Privy Seal
16 if the statements in exhibit 3799-A are correct. The
17 document offered shows that the Emperor, Prince SAIONJI,
18 HAHADA, YUASA, Admiral OKADA, Tsuneo MATSUDAIRA and
19 KONOYE recommended and approved of KIDO as Lord Keeper
20 of the Privy Seal.

21 THE PRESIDENT: Mr. Comyns Carr.

22 MR. COMYNS CARR: If it please the Tribunal,
23 the document only shows that they considered him, or
24 some of them considered him a better candidate than
25 some others named, and that SAIONJI declined to express

1 an opinion though he actually did not oppose the
2 opinion formed by others.

3 MR. LOGAN: I might state that Prince SAIONJI
4 said -- oh, excuse me.

5 MR. COMYNS CARR: In our submission it is
6 merely a matter of character and opinion from beginning
7 to end.

8 MR. LOGAN: I might state that Prince SAIONJI
9 said -- it is shown in this document that Prince SAIONJI
10 on the last page stated that there was absolutely no ob-
11 jection on his part to having Marquis KILO appointed.

12 THE PRESIDENT: By a majority the objection is
13 overruled and the document admitted on the usual terms.

14 CLERK OF THE COURT: Chapter 364 of the --

15 THE PRESIDENT: I am sorry, I made a mistake
16 there. Objection sustained and the document rejected.

17 MR. LOGAN: I didn't hear your last remark.

18 THE PRESIDENT: The objection is sustained
19 and the document rejected.

20 MR. LOGAN: We offer in evidence defense docu-
21 ment 2622. Defense document 2622 being a letter dated
22 September 13, 1941 from HARADA to KILO is offered in
23 evidence. This also answers the prosecution exhibit
24 3799-A which was HARADA's Memoir of April 20th, 1936
25 and the prosecution's contention that KILO made

1 contemptuous remarks about the Emperor.

2 It is important in that it shows that SAIONJI
3 stated KIDO was loyal and unswervingly devoted to the
4 Emperor and that HARADA concurred in Prince SAIONJI's
5 praise of KIDO, contrary to the highly doubtful editing
6 and translating of HARADA's Memoirs, exhibit 3799-A.

7 MR. COMYNS CAIR: The document is of exactly
8 the same character as the last, your Honor. It is a
9 quotation from an undated letter by SAIONJI to HARADA
10 relating to KIDO's grandfather and KIDO's own character,
11 and containing a Chinese poem written by SAIONJI.

12 MR. LOGAN: May I argue this after the recess,
13 if the Tribunal please?

14 THE PRESIDENT: We will recess for fifteen
15 minutes.

16 (Whereupon, at 1445, a recess
17 was taken until 1500, after which the
18 proceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 MR. COMYNS CARR: Your Honor, I find I made
4 a mistake in what I said just now about this document
5 now being submitted. I said that it contained a
6 quotation from a letter from Prince SAIONJI. Actually,
7 the quotation is from a document of unnamed origin
8 and authorship, purporting to quote certain oral
9 remarks of Prince SAIONJI.

10 MR. LOGAN: I would like to correct another
11 mistake. Apparently, the prosecutor overlooked the
12 fact when he said it was undated that the date,
13 September 13, 1941, appears at the head of the letter,
14 and the envelope, which is also on file with the
15 Court, shows the letter was dated September 13 and
16 stamped September 14, 1941.

17 The importance of this document lies in the
18 fact that Prince SAIONJI, the one who was primarily
19 responsible for the appointment of KIDO as Lord Keeper
20 of the Privy Seal -- his statements as to the reasons
21 why he appointed him are very important, especially
22 in view of the documents and the comments that were
23 made by the prosecutor upon the introduction of ex-
24 hibit 3799-A, record page 37,784 and 37,788. As the
25 prosecution is probably aware, the prudence and

1 caution of Prince SAIONJI was well known to all
2 Japanese people, and it is only on rare occasions that
3 we have been able to find any direct expressions of
4 his opinions. It certainly should be of assistance
5 to the Tribunal to know the reasons why Prince SAIONJI
6 recommended KIDO for the position of Lord Keeper of
7 the Privy Seal. Furthermore, the fact that the poem
8 attached to this document is in Chinese is no ground
9 for rejecting the document. It is the sentiment
10 contained in the poem that counts, which is also very
11 dear to the hearts of the Japanese people. It
12 emphasizes devotion to the Throne, which was one of
13 the reasons why KIDO was appointed.

14 THE PRESIDENT: By a majority the objection
15 is sustained and the document rejected.

16 Mr. Comyns Carr.

17 MR. COMYNS CARR: May it please the Tribunal,
18 I now have the passage which the Tribunal said that
19 I might read in connection with exhibit 3878, the last
20 document introduced by my friend, Mr. Yamaoka.

21 THE PRESIDENT: I understood him to say he
22 had no objection?

23 MR. COMYNS CARR: Yes, your Honor. It is the
24 extract of the 12th of August, 1939.

25 THE MONITOR: What document are you referring

1 to, Mr. Carr? Could you tell us how we can get the
2 Japanese copy of that or do you have it?

3 MR. COMYNS CARR: You had it when I tendered
4 it before, but I am afraid I haven't got it now.

5 THE MONITOR: What is the IPS document number?

6 MR. COMYNS CARR: IPS document No. 3150-366C,
7 extract from Chapter 336.

8 THE MONITOR: Let us see if we can find it.
9 Could you give us a few minutes, please?

10 MR. COMYNS CARR: Your Honor, perhaps I had
11 better take another occasion when they have got the
12 original copy here.

13 THE PRESIDENT: Yes. This is dreadful.

14 You are for MINAMI, Captain Brooks?

15 MR. BROOKS: I have MINAMI's, and I have
16 also KOISO's, if your Honors please. However, at this
17 time on the regular order that you are following
18 KOISO should appear, but we have not finished the
19 processing of his documents. On KOISO's order of
20 proof there will be two affidavits of witnesses and
21 three documents and a short affidavit by KOISO, himself,
22 as to certain evidence in surrebuttal.

23
24 THE PRESIDENT: Before you proceed with that,
25 I wish to say that there will be no conference of
Judges and counsel this afternoon because I understand

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1 the prosecution have released their summations, so far
2 as prepared, to the defense as well as to the Judges.
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1 MR. BROOKS: I understand, if your Honor
2 please, that we were to receive part of it this
3 afternoon. I have not received it myself, but I think
4 later this afternoon we are to receive part of the
5 general summation, and Mr. Carr says he can assure the
6 Tribunal it has been delivered. But I will make
7 further inquiry and report it to the Tribunal as soon
8 as possible.

9 As to the processing of the KOISO documents,
10 the Japanese copies are processed and the English
11 copies are in the process of stenciling for reproduction,
12 and should be ready, I am told, sometime late tomorrow
13 afternoon. However, at this time, if the Tribunal
14 please, I am prepared to go ahead on MINAMI's evidence,
15 which is very short, and there is one affidavit. The
16 witness is not to be called under agreement with the
17 prosecution.

18 THE PRESIDENT: We have not heard from
19 MATSUI's counsel yet.

20 MR. BROOKS: I was going to suggest that
21 Mr. MATSUI's counsel also has very short evidence.
22 He could be heard now, and I will follow with MINAMI's.
23

24 THE PRESIDENT: Mr. Comyns Carr.

25 MR. COMYNS CARR: May it please the Tribunal,
the interpreters tell me they now have the Japanese of

1 the document I was going to read. Would it be con-
2 venient for me to read it now?

3 THE PRESIDENT: Yes.

4 MR. COMYNS CARR: It was IPS document
5 No. 3150-3360.

6 "12 August 1939.

7 "Then after returning from a trip through
8 Hakone, I visited Home Affairs Minister KIDO on the
9 morning of the 12th. /He/ said, 'When I met KONOYE
10 last night he said that although he believed that
11 ARAKI would also suffice for the succeeding cabinet,
12 would it not be better to have HIROTA; that when he
13 /KIDO/ met HIROTA the other day, his opinions were
14 very similar to those of the army; that therefore,
15 since HIROTA is optimistic and acts intelligently he
16 should do. It is beside the point whether HIROTA, in
17 the end, would accept or not. To tell the truth, I
18 have not met HIROTA yet...'"

19 THE PRESIDENT: That is really a separate
20 document, isn't it? You are not supplying an omission
21 from a document tendered by the defense, but reading
22 an entirely new document, is that so?

23 MR. COMYNS CARR: This is the document which
24 is, in my submission, closely connected with the docu-
25 ment, 3035, which the defense read, the last one

read by Mr. Yamaoka.

1 THE PRESIDENT: I do not think we will require
2 you to tender it now and have it numbered. I am think-
3 ing of the mechanical side of it.

4 MR. COMYNS CARR: As your Honor pleases.

5 MR. BROOKS: If the Tribunal please, that
6 document was at one time tendered and rejected, and I
7 suggested that it should be numbered to avoid confusion.

8 THE PRESIDENT: We have decided not to bother.

9 About ITAGAKI, Mr. Mattice, the processing
10 department is ready to attend to any document you tender.
11 In fact, they are waiting for you to bring documents
12 to them.

13 I understand you have a witness. We will
14 see that you get transport to get him here as soon as
15 possible. But there is not to be three days' delay,
16 or anything like it.

17 MR. MATTICE: For the purpose, on behalf of
18 the accused MATSUI, of meeting a part of prosecution
19 exhibit 3269, which was admitted, page 37,245 of the
20 transcript, wherein it was stated in substance that
21 General MATSUI had communicated with the central
22 authorities, stating that they should not deal with
23 Chiang Kai-shek, we offer defense document 3024, which
24 is the affidavit of the accused MATSUI.
25

THE PRESIDENT: Brigadier Nolan.

1 BRIGADIER NOLAN: May it please the Tribunal,
2 we object to the introduction of this document into
3 evidence because it tells us only what we already
4 know in this case.

5 In the first place, we know that envoys were
6 sent to Sung Tzu-wen because it was contained in the
7 affidavit of the defendant MATSUI at page 33,826 of the
8 record. In addition, at pages 32,754-55 of the record,
9 we have a detailed description of the mission, itself,
10 from Envoy OKADA, who gave evidence in this case.

11 In the second place, the alleged desire for
12 improving relations with China has been emphasized by
13 the defendant MATSUI in his own examination in chief
14 at pages 33,814-5 of the record.

15 And finally, as to whether he advised that
16 the authorities should not deal with Chiang Kai-shek
17 has been specifically denied on cross-examination by
18 the defendant MATSUI, himself, at page 33,945 of the
19 record.

20 The prosecution submits, if we may, that the
21 affidavit is purely repetition, and that it does not
22 comply with the requirements of the ruling of the Tri-
23 bunal regarding evidence to be adduced at this stage.
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MR. MATTICE: This, if the Tribunal please, is
1 an example of one trying to be in two places at the same
2 time. Occupied with matters which have no connection
3 with this accused, I have not myself checked the record.
4 Japanese counsel inform me that the accused MATSUI was
5 not interrogated on this subject, and did not enter a
6 denial. The only purpose of this affidavit is to enter
7 that denial, if not previously made, and if I may rely
8 on the prosecution statement that it has been made,
9 there of course is no use introducing this document.

10 THE PRESIDENT: By a majority the objection is
11 sustained and the document rejected.

12 MR. MATTICE: That is all then, if the Court
13 please, on behalf of MATSUI.

14 THE PRESIDENT: Captain Brooks.

15 MR. BROOKS: On behalf of MINAMI, we offer
16 defense document No. 3045-A, the affidavit of ABO,
17 Kiyotane. ABO was the Navy Minister in 1931 when MINAMI
18 was the War Minister. By this affidavit we wish to
19 refute the hearsay reports of October 1st and October
20 22nd, 1931 of the HARADA Memoirs, exhibits No. 3760-A
21 and No. 3761-A, pages 33,656-8 of the transcript and
22 pages 37,591-2 of the transcript.

23 The prosecution do not offer any objection to
24 this document or desire the witness for cross-examination.
25

THE PRESIDENT: Was there no objection?

The document is admitted on the usual terms.

CLERK OF THE COURT: Defense document 3046-A
will receive exhibit No. 3882.

(Whereupon, the document above
referred to was marked defense exhibit
No. 3882 and received in evidence.)

MR. BROOKS: I will now read exhibit 3882,
deposition of ABO, Kiyotane, omitting the formal parts.

"1. I have no occupation at present and reside
at 483 Narimune-Sanchome, Suginami-ku, Tokyo.

"2. In 1931, I was the Navy Minister in the
second WAKATSUKI Cabinet. I attended all the Cabinet
meetings held until the resignation en masse on December
10th, 1931.

"3. Neither at any of the said Cabinet meetings
nor on any other occasion did I hear War Minister MINAMI
say such words as 'It is better for Japan to withdraw
from the League of Nations,' or 'There is no need for
paying deference to the League of Nations,' or 'Should
Japan be determined to wage war against the whole world,
this can be done.'

"4. If there is any discrepancy between any
words of Baron SHIDEHARA and the so-called Memoirs of
Baron HARADA, I would believe implicitly in Baron

1 SHIDEHARA, because he was always with me at the said
2 Cabinet meetings.

3 "January 28th, 1948, at Tokyo.

4 "Deponent: ABO, Kiyotane (signed and sealed)"

5 That is all of the evidence I have on behalf of
6 the accused MINAMI. We are continually, I might tell
7 the Court, checking the HARADA Memoirs. My Japanese
8 counsel are working with Miss KONOYE and SATOMI, the
9 other man, checking this document, and it will take
10 some little time to finish our research thereon, but I
11 hope to have it completed, the ground work of it, by
12 tomorrow.

13 As to the prosecution's opening statement, I
14 have just received a note that a portion of the IPS
15 opening statement, totalling 624 pages, has been re-
16 ceived this afternoon.

17 THE PRESIDENT: Mr. Cole.

18 MR. COLE: May it please the Tribunal, on behalf
19 of General MUTO I have two very brief affidavits. I am
20 assured that the prosecution does not require the presence
21 of these deponents for the purpose of cross-examination.

22 I offer first, may the Tribunal please, the
23 affidavit of ISHIWATA, Sotaro, to contradict prosecution
24 testimony which appears at page 37,861 to the effect that
25 General MUTO had a conference with Mr. ISHIWATA in the

presence of General ANAMI.

1 MR. LOPEZ: If the Tribunal please.

2 THE PRESIDENT: Mr. Lopez.

3 MR. LOPEZ: The prosecution objects to the
4 introduction of this document on the ground that it con-
5 tains the subject matter fully covered in the HATA
6 defense phase. The prosecution did not bring out any
7 new matter which calls for the surrebuttal of this docu-
8 ment.
9

10 MR. COLE: May it please the Tribunal, consider-
11 able emphasis was put upon the point that the conference
12 with Mr. ISHIWATA was also in the presence of General
13 ANAMI. I say, with all due respect, that I am not
14 concerned with any testimony that went in for General
15 HATA. I am interested in what went in against General
16 MUTO. And if I can say so without offense, sir, I per-
17 mit myself the observation that the prosecution could
18 have produced their documents from Mr. ISHIWATA instead
19 of relying upon the HARADA Memoirs.
20

21 THE PRESIDENT: By a majority the objection is
22 overruled and the document admitted on the usual terms.

23 CLERK OF THE COURT: Defense document 2993 will
24 receive exhibit No. 3883.

25 (Whereupon, the document above
referred to was marked defense exhibit

No. 3883 and received in evidence.)

MR. COLE: I omit the formal portions.

"1. I, ISHIWATA, Sotaro, occupied the post of Chief Secretary of the YONAI Cabinet from January to July, 1940.

"2. The resignations of the members of the YONAI Cabinet were tendered on 16 July 1940. On the following day, the 17th, War Vice-Minister ANAMI paid me a visit to convey the view of the Army as to filling the vacancies in the membership of the Imperial nominees of the House of Peers. But I gave him a refusal, saying that a decision had already been made on the part of the Cabinet. This was my first and last interview with Vice-Minister ANAMI in those days. And on the occasion in question (General MUTO's visit to me) I am positively sure that Director MUTO of the Military Affairs Bureau was alone and was not accompanied by Vice-Minister ANAMI.

"3. It is my recollection that often I did not tell Baron HARADA all the precise details of matters, as I believed that Premier YONAI was not pleased to see him because of and for fear of HARADA's thoughtlessness and frivolity in speaking.

"4. MUTO, Director of the Military Affairs Bureau, being a soldier and type of man who was always very careful about his choice of words, never said any-

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1 thing to the effect that Minister HATA would be asked
2 or made to resign, HATA being his superior officer. I
3 remember that he said that Minister HATA might be forced
4 by the circumstances to resign." ,
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1 If the Tribunal please, I offer next defense
2 document 3007, the affidavit of NAKAMURA, Masao. This
3 is offered in connection with exhibit 3748, an
4 affidavit, or I should say memorandum, by Major
5 Merrill regarding the conversation which he claimed
6 to have had with General MUTO.

7 MR. LOPEZ: If the Tribunal please.

8 THE PRESIDE 1: Mr. Lopez.

9 MR. LOPEZ: General MUTO attempts through the
10 testimony of NAKAMURA, Masao, defense document 3007,
11 to give his own version of an interview with Major
12 Merrill on October 8, 1941. If the Tribunal will
13 recall, General MUTO strongly denied on the witness
14 stand that he ever had any interview with any military
15 attache on October 8, 1941. The full implication of
16 General MUTO's denial on the witness stand was that
17 Major Merrill was talking through his hat, that no
18 interview occurred at all. But at this late moment,
19 General MUTO would want to change theories in the
20 middle of the stream and would have the Tribunal
21 believe that actually the interview occurred, but
22 Major Merrill's version was inaccurate.

23 MR. COLE: May it please the Tribunal, unless
24 I am very badly mistaken, General MUTO did not deny
25 the interview, but said that he did not recall it.

1 This affidavit makes clear, too, another
2 point which might have caused confusion, and that
3 is that at the time the person in question was called
4 Captain Merrill instead of Major Merrill.

5 This concerns matter which was brought up on
6 rebuttal and might very well have been brought up
7 in the principal case and we are answering it in
8 point.

9 THE PRESIDENT: Well, did MUTO deny the
10 interview?

11 MR. COLE: Sir, General MUTO denied, as the
12 prosecution had charged, that he had ever invited a
13 military attache to his office. The document itself,
14 if I recall, in its first sentence stated that the
15 deponent was taken to Imperial General Headquarters
16 and from there was taken to General MUTO's office and
17 introduced to him, which I submit is somewhat different
18 from the prosecution's claim that the Major was
19 invited there.

20 One point further, if your Honor please: General
21 MUTO in his cross-examination, I believe, said that
22 he remembered talking with an American Captain and
23 this bears out that very fact.

24 MR. LOPEZ: If your Honor please, may I be
25 permitted to quote --

1 THE PRESIDENT: Just a moment, I am correcting
2 a mistake of something that has been made.

3 MR. LOPEZ: -- from page 33,207 of the record,
4 where General MUTO said, after I asked him whether
5 in his office on October 8, 1941 he made the following
6 statements to Major Merrill. And this was the answer
7 of General MUTO: "That is absolutely contrary. In
8 the first place, I have not met a military attache of
9 the United States on the 8th of October," period!

10 MR. COLE: I think the issue is clear, if
11 your Honor please. I have nothing further.

12 THE PRESIDENT: That is what he says on
13 cross-examination; that he had met the United States
14 Military Attache or somebody from his office, a young
15 captain.

16 MR. COLE: Yes, sir.

17 THE PRESIDENT: By a majority the objection is
18 overruled and the document admitted on the usual terms;

19 CLERK OF THE COURT: Defense document 3007 will
20 receive exhibit No. 3884.

21 (Whereupon, the document above re-
22 ferred to was marked defense exhibit No. 3884
23 and received in evidence.)
24

25 MR. COLE: Omitting the formal portions:

"1. My name is NAKAMURA, Masao. I am an

1 ex-Lieutenant Colonel. I was a member of the Military
2 Affairs Bureau of the War Ministry from April 1940 to
3 March 1943 and was under Lieutenant General MUTO
4 when he was Director of the Military Affairs Bureau.

5 "2. In those days my duty was to make
6 liaison with and reception of Foreign Attaches, and
7 similar matters.

8 "3. With reference to the matter that an
9 American officer called on Director MUTO sometime in
10 the first ten days of October 1941, I recall the
11 following points:

12 "A. At that time a certain American officer
13 who was attached to a regiment of the Japanese Army at
14 Hirosaki (I am sure he was then called Captain Merrill)
15 came to say farewell to Director MUTO, as he was being
16 transferred to the Philippines. I was present at
17 the time in the Director's office. On cross-examination,
18 MUTO stated that he met somebody from the United States
19 Military Attache's office, and that it was a young
20 captain, 'a very hale and hearty fellow, who came to
21 see me because he was returning to his country in
22 October'. (Record page 33,208) This is the very
23 same instance.

24 "B. The American officer being quite a
25 joyful and merry fellow, we had a very good impression

1 of him. The Director was very busy in those days and
2 therefore his interviews were usually ended in about
3 five minutes. This interview, however, lasted an
4 hour or so, and they both made straightforward remarks
5 from the standpoint of soldiers in a very smooth
6 atmosphere throughout.

7 "C. He talked a good deal about the happy
8 experiences he had had both in his official and private
9 life during his attachment to the regiment in Hirosaki.
10 At that time we had respect for him, knowing that he
11 had studied and was well acquainted with the real
12 situation of Japan and the Japanese Army.

13 "D. Such being the case, his chat with MUTO
14 naturally was prolonged. During the talk, MUTO laid
15 stress on the necessity of good-will between Japan and
16 America under the then-prevailing taut circumstances,
17 and repeatedly explained how he had been trying his
18 best to bring about a peaceful conclusion of the
19 negotiations between Japan and America for that
20 particular reason.

21 "E. If my memory is not mistaken, MUTO then
22 referred to the issue of infringement on American
23 rights in China caused by the Japanese Army during
24 the hostilities as being one of the important reasons
25 which interfered with the Japanese-American negotiations.

1 He mentioned, I recall, something to the effect that
2 it was difficult to have the whole case understood
3 merely through the explanations given by the diplomats;
4 but that 'such military personnel as you, who are well
5 acquainted with the true situation of Japan and the
6 Japanese Army, can well understand the whole case.
7 Therefore, please make your explanation of the situation
8 to your superior officers. From such a mutual under-
9 standing of the Japanese-American military circles,
10 the crisis of a Japanese-American collision can be
11 averted'.

12 "F. MUTO further stated that in case this
13 mutual understanding unhappily could not be reached,
14 there were possibilities that the situation might
15 expand into war, and that that was the point about
16 which he was worrying. I remember that he added,
17 half in jest, to the effect that 'in case we arrive
18 at such an unfortunate situation, since you are now
19 going to Manila, we might meet again there -- isn't
20 that so?'

21 "G. During their interview, there was
22 absolutely no statement by MUTO to the effect that
23 'you will be fighting us in six weeks in Manila'. The
24 real situation was that in those days the whole staff
25 of the Military Affairs Bureau, including Director MUTO,

1 had been trying their utmost, by order of War Minister
2 TOJO, to bring about a satisfactory conclusion of the
3 Japanese-American negotiations. Moreover, that was
4 still in the period in which no decisions whatsoever
5 had yet been made to make war. Also, MUTO was the
6 type of man whose utterances and behaviour were based
7 on common sense. It is impossible that he should
8 have stated such an unscrupulous matter as above-
9 mentioned."

10 THE PRESIDENT: We will adjourn until half-
11 past nine tomorrow morning.

12 (Whereupon, at 1600, an adjournment
13 was taken until Tuesday, 3 February 1948, at
14 0930.)
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